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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. NO. 14787 OF 2017

AND

W.M.P. NO. 16038 OF 2017

The Management of Metropolitan
Transport Corporation (Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai-600 002.

... Petitioner

-vs-

1. The Special Deputy Commissioner of Labour,
(Under Section 33 (2) (B) of the Industrial Disputes Act, 1947)
Chennai.

V.Madhavan (Died),

2. M.Amudha

3. M.Karthick

4. M.Vaishali

5. Senthamarai

... Respondents

Prayer:-

Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari or any writ, order or direction to call for the records of the order passed by the 1st respondent in Approval Petition in A.P. No. 555 of 2011 dated 31.07.2013 and to quash the same as illegal.

For Petitioner : Mr.K.Moorthi

For R-1 : Mrs.C.Sangamithrai,
Special Government Pleader



For R-2 to R4 : Mr.S.T.Varadharajulu

For R5 : No appearance

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O R D E R

Heard Mr. K.Moorthi, Learned Counsel for the Petitioner, Mrs. C.Sangamithirai, Learned Special Government Pleader for the First Respondent and Mr. S.T.Varadharajulu, Learned Counsel for the Second to Fourth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. It is borne out from the materials placed on record that one Mr. V.Madhavan, who was employed as driver, had been terminated from service by the Petitioner by Order in Se. Mu. No. 15484/Sapi(Ona) 15/Mapoka/2006 dated 29.09.2007 for misconduct. Since conciliation proceedings relating to an industrial dispute between the Petitioner and the Trade Union in which he was a member was then pending before the First Respondent, the Petitioner had made an application under Section 33(2) (b) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act' for short) for approval of termination. The Second Respondent, who is his wife, and the Third to Fifth Respondents, who are his children, had been substituted as legal representatives of the said V.Madhavan after his death in the said proceeding. The application for removal was ultimately rejected by order dated 31.07.2013 in A.P. No. 555 of 2011 passed by the First Respondent. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the same.

3. Learned Counsel for the Respondent has brought to notice that the said Mr. V.Madhavan had died on 22.09.2010 and it was only thereafter that 03.12.2011, the application for approval had been made. The First Respondent examined all these factors and in terms of the decision of the Hon'ble Supreme Court of India in Lalla Ram -vs- D.C.M. Chemical Works Ltd. (AIR 1978 SC 1004) has pointed out that the Approval Petition had not been filed immediately after the order of termination and the inordinate delay remains unexplained and declined to grant the approval for termination. In such circumstances, the impugned order dated 31.07.2013 in A.P. No. 555 of 2011 passed by the First Respondent, which does not suffer from infirmity, cannot be interfered by this Court in the exercise of discretionary powers of judicial review of the decision-making process under Article 226 of the Constitution.



In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Maya/gd

To

The Special Deputy Commissioner of Labour,
(Under Section 33 (2) (B) of the Industrial Disputes Act, 1947)
Chennai.

+1cc to Mr.S.T.Varadharajulu, Advocate, S.R.No.10437
+1cc to the Government Pleader, S.R.No.10815

W.P. No. 14787 of 2017

SVI (CO)
PM/10/03/2022