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W.P.No.16434 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16434 of 2017
and
W.M.P.No.17772 of 2017

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

...Petitioner

Vs.

1.The Special Deputy
Commissioner of Labour,
D.M.S.Complex, IV Floor,
Teynampet, Chennai – 600 006.

2.Thiru.G.Rajaguru

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the order passed in A.P.No.172 of 2014 dated 20.02.2017 on the files of the 1st respondent herein and quash the same.



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W.P.No.16434 of 2017

For Petitioner : Mr.R.Ramanlal
Additional Advocate General
Assisted by Mr.M.Chidambaram

For R1 : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.S.John J.Rajasingh
Additional Government Pleader

For R2 : Mrs.M.D.Leelavathi

ORDER

The order passed by the first respondent in Approval Petition No.172 of 2014 dated 20.02.2017 is sought to be quashed in the present writ petition.

2. Metropolitan Transport Corporation Chennai Limited is the petitioner.

3. A charge against the 2nd respondent / workman was framed regarding unauthorized absence. Enquiry proceedings were conducted and the charges were held proved in departmental disciplinary proceedings and consequently, the Disciplinary Authority imposed the penalty of removal



W.P.No.16434 of 2017

from service.

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4. The writ petitioner/Management filed an Approval Petition under Section 33 (2) (b) of the Industrial Disputes Act. The first respondent/The Special Deputy Commissioner of Labour adjudicated the issues with reference to the principles laid down by the Apex Court in the case of **Lalla Ram vs. DCM Chemical Works Ltd [(1978) 3 SCC 1]**.

5. The first respondent made a finding that he was not in a position to form an opinion regarding the compliance of the principles of natural justice.

6. If at all the competent authority is unable to form an opinion, whether the rules of natural justice has been complied with or not, then the authority competent is bound to call for the records from the Management and thereafter, form an opinion. Contrarily, the authority, who is exercising the Quasi-Judicial power, cannot make a finding that he is unable to decide, whether the enquiry was conducted in compliance with the principles of natural justice or not. Such a finding *prima facie* shows an inadequate



W.P.No.16434 of 2017

adjudication and non-application of mind. Even, while forming an opinion that he is unable to decide the issues, reasons must be recorded for such decision. Contrarily, the finding that he is unable to decide, whether the principles of natural justice has been complied with or not is unacceptable.

7. Therefore, the first respondent ought to have called for the records and find out, whether the procedures as contemplated were followed by affording opportunity to the charged official and if such opportunities were afforded, then there won't be any difficulty to form an opinion that the principles of natural justice has been complied with. However, such an effort had not been taken by the first respondent and therefore, this Court is inclined to remand the matter back for fresh adjudication.

8. Accordingly, the order passed by the first respondent in A.P.No.172 of 2014 dated 20.02.2017 is quashed and the matter is remanded back to the first respondent for fresh adjudication. The 1st respondent is directed to call for the records from the petitioner/Management, examine the entire records with reference to the procedures followed and the opportunities provided to the charged official



W.P.No.16434 of 2017

and thereafter pass orders by affording an opportunity to all the parties and decide the issues as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

9. With these directions, the writ petition stands allowed. No costs.

Consequently, connected miscellaneous petition is closed.

25.11.2022

Index : Yes
Speaking order: Yes
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To

1. The Special Deputy
Commissioner of Labour,
D.M.S. Complex, IV Floor,
Teynampet, Chennai – 600 006.



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W.P.No.16434 of 2017

S.M.SUBRAMANIAM, J.

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W.P.No.16434 of 2017

25.11.2022