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W.P.No.11614 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.11614 of 2015
and M.P.No.1 of 2015

The Management
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd., Trichy Region
Trichy.

.... Petitioner

-Vs-

1.M.Periyasamy

2.The Special Deputy Commissioner of Labour
DMS Compound, Chennai.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the order passed by the 2nd respondent in A.P.No.152 of 2012 dated 05.12.2013 and to quash the same as illegal.

For Petitioner : Mr. M.Murali Vinoth
for Mr.Sathya Gandhi

For Respondents : Mr.N.Balamurali
for Mr.N.Rajinikanth – for R1

R2 - Court



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ORDER

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The workman was working as a driver with the writ petitioner Management. He joined service on 22.07.1988 as a driver. He produced a certificate that he had passed 8th standard from M.K.L.Hindu Middle School, Arakkonam. It was alleged that the said certificate is a forged and false one and therefore, the Management called upon the workman to submit his explanation. Explanation was submitted and that not being satisfactory, an enquiry was instituted.

2. The charge against the workman, on the basis of which the enquiry instituted was that, he had indulged in gross misconduct under Clause 24(4) and 24(40) of the Certified Standing Orders. The enquiry officer submitted a report that the petitioner is guilty as charged. A second show cause notice was issued on 20.03.2007. The explanation not having been found satisfactory, the Management dismissed the workman from service on 18.04.2012. Since the conciliation proceedings were pending, approval petition was filed before the appropriate authority in A.P.No.152 of 2012. The said approval petition was dismissed on 05.12.2013. Challenging the same, the present writ petition has been filed by the Management.

3. Mr.Murali Vinoth learned counsel for Mr.Sathya Gandhi, learned counsel



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for the writ petitioner Management would submit that all the five points laid down in **Lalla Ram -vs- Management of DCM Chemical Works Ltd., and another** reported in **AIR 1978 SC 1004** had been complied with. Therefore, the authority ought to have allowed the application and approved the dismissal.

4. Mr.N.Balamurali, learned counsel for the respondent workman would submit that the petitioner had produced a certificate that he was possessed of the said qualification and that had not been considered and on the contra, the Management had received a letter sent by the District Elementary Education Officer forwarding a letter of the Assistant Elementary Education Officer, Arakkonam containing the Transfer Certificate (T.C.) and the certificate. The person who entered the box was, neither the Assistant Elementary Education Officer nor the District Education Officer, but the Superintendent of the writ petitioner Management.

5. Heard both sides. I have carefully considered the arguments of either side and perused the records.

6. A perusal of the impugned order shows that the five principles of **Lalla Ram -vs- Management of DCM Chemicals** has been correctly culled out by the authority. He came to the conclusion that the enquiry was in compliance of



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the principles of natural justice, but however found, when the workman has produced a certificate to the effect that he has passed 8th Standard, the person who had been examined to mark the documents issued by the Assistant Elementary Education Officer was the Superintendent, an incompetent witness and he had held there is no prima facie case.

7. Though I could take a different view, sitting in Article 226 of the Constitution, I only have to see if the view taken by the authority is probable one or it is perverse or tainted with illegality. From records I find that it is probable one and even if I am convinced, I cannot take a different view. I am only concerned with the decision making process and not the decision itself. Therefore, I find that the labour Court has applied the principles correctly and came to the conclusion on the basis of the records available before it, which I can neither term as perverse nor illegal.

8. Therefore, I am of the view that the impugned order need not be interfered with at this point of time. In any event the order is valid and the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.



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9. I also have to add that the workman retired on 31.03.2018. The 1st respondent workman shall be entitled to all the consequential benefits flowing down of this order.

23.06.2023

Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

To

The Special Deputy Commissioner of Labour
DMS Compound, Chennai.



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V. LAKSHMINARAYANAN, J.

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