



W.P.Nos.14396 & 14397 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.14396 & 14397 of 2016

and

W.M.P.Nos.12585 & 12586 of 2016 and 12406 of 2017

Management,
State Express Transport Corporation,
Pallavan Salai,
Chennai – 600 002.

... Petitioner in both WPs

Vs.

1.The Special Deputy Commissioner of Labour,
Teynampet, Chennai.

... 1st respondent in both WPs

2.S.Palani

... 2nd respondent in W.P.No.14396 of 2016

3.M.S.Chandrasekaran

... 2nd respondent in W.P.No.14397 of 2016

Prayer in W.P.No.14396 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in order dated 12.01.2015 in Approval Petition No.142 of 2010 on the file of the Special Deputy Commissioner of Labour, Teynampet, Chennai and to quash the same and consequently allow the approval petition.



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Prayer in W.P.No.14397 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in order dated 14.01.2015 in Approval Petition No.84 of 2012 on the file of the Special Deputy Commissioner of Labour, Teynampet, Chennai and to quash the same and consequently allow the approval petition.

For Petitioner : Mr.K.Kathiresan
(in both WPs)

For Respondents : Labour Court [R1]
Mr.K.Prem Kumar
[R2 in W.P.No.14396 of 2016]
Mr.V.Ajoy Khose
[R2 in W.P.No.14397 of 2016]

COMMON ORDER

Since the issue involved in both the writ petitions are one and the same, with the consent of the learned counsel appearing for the parties, these writ petitions are heard together and disposed of by this common order.

2. The State Express Transport Corporation (Tamil Nadu) Ltd., is a state public sector undertaking operating express service route buses to distant places both inside Tamil Nadu and to the adjoining states of



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Puducherry, Karnataka, Kerala and Andra Pradesh. The respective second respondent/workmen entered the service of the petitioner Corporation as driver cum conductor in the year 1997 and 2008 respectively. However, it is alleged that, the workmen have unauthorizedly absented themselves from 25.02.2008 and 10.08.2011 onwards respectively, thereby, disciplinary proceedings was initiated against them by issuing charge memo and appointing Enquiry Officer. The Enquiry Officer drawn proven minute and based on the proven minute, a report was sent to the workmen and second show cause notice dated 08.03.2010 and 03.01.2012 was issued to them. Thereafter, termination order was passed on 17.08.2010 and 27.02.2012 respectively. Subsequently, the petitioner Corporation made applications in A.P.Nos.142 of 2010 and 84 of 2012 under Section 33(2)(b) of the Industrial Disputes Act, 1947 (in short 'the I.D. Act') for approval of the termination, which was ultimately rejected by orders dated 12.01.2015 and 14.01.2015 respectively. Challenging the same, the above writ petitions are filed.



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3. The learned counsel for the petitioner Corporation submitted that, the petitioner Corporation is ready to reinstate the workmen within a reasonable time that may be fixed by this Court, if the workmen agree to forego the back wages during the non-employment period. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the respective second respondent/workmen submitted that, if the petitioner Corporation agree not to recover the payment already made to the workmen under Section 17(B) of the I.D. Act, the workmen are ready to forego the back wages for the non-employment period.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. A perusal of the impugned orders passed by the Labour Court reveals that, there is no error in the impugned orders passed by the Labour Court and it is found that, based on the law laid down by the



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Apex Court in the case of *Lalla Ram Vs. Managment of D.C.M.*

Chemicals Works Ltd. & Ors. reported in *AIR 1978 SC 1004*, the Labour Court has decided the approval petitions filed by the petitioner Corporation.

7. In view of the fair submission made by the learned counsel appearing for the petitioner as well as the respective second respondent/workmen, this Court is inclined to modify the award passed by the Labour Court as follows :-

(i) the petitioner Corporation is directed to reinstate the respective second respondent/workmen within a period of four weeks (4) from the date of receipt of a copy of this order ;

(ii) the second respondent/workmen are not entitled for any back wages during the non-employment period and the petitioner Corporation is directed not to insist the refund of the amount already paid by them to the workmen;

(iii) the respective second respondent/workmen are entitled for all other benefits including continuity of service.



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M.DHANDAPANI, J.

sp

8. With the above modifications, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

10.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Special Deputy Commissioner of Labour,
Teynampet, Chennai.

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