



WEB COPY



W.P.No.29404 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.06.2023

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

W.P.No.29404 of 2013

and

M.P.No.1 of 2013

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

...Petitioner.

Vs.

1.The Special Deputy Commissioner of Labour,
D.M.S.Compound,
Chennai.

2.M.Kalanidhi

...Respondents.

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, to issue writ of Certiorari to call for the records of the orders passed by the 1st respondent in Approval Petition in A.P.No.195 of 2010 dated 27.12.2012.

For Petitioner : Mr.C.Gawtham Raj



For Respondent :
For R1 : Court
For R2 : -NA-

ORDER

The petitioner challenges the proceedings of rejection of the Approval Petition in A.P.No.195 of 2010 dated 27.12.2012. The second respondent is working as a conductor with the writ petitioner. According to the writ petitioner, he was absent from duty from 06.03.2008. As the absence was without any prior intimation or sanction, a charge memo was issued on 04.04.2008.

2. According to the learned counsel for the writ petitioner no explanation was given to the charge memo and therefore, the writ petitioner was constrained to appoint an enquiry officer. The enquiry officer also seems to have summoned the second respondent but he did not participate in the same. Consequently, the enquiry officer submitted an *ex-parte* report finding the second respondent guilty of charge. The petitioner filed a petition under Section 33 (2) (b) of the Industrial Disputes Act, 1947 seeking for approval of the order of dismissal that was passed on 25.10.2010, consequent to the enquiry officer's report.

3. The learned authority found that the respondent had not followed the



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judgment of the supreme court in *Lalla Ram Vs. D.C.M.Chemical Works Ltd. & Anr. AIR 1978 SC 1004*. It found in particular that one month of

wages were not been paid and that the enquiry was not in accordance with the principles of natural justice and that there is no *bona-fide* action by the writ petitioner and also that there is no *prima-facie* case available for imposition of punishment. Challenging the same, the present writ petition has been filed.

4. I have gone through the impugned order. The authority has given cogent reasons for disagreeing with the writ petitioner on issues No.1,3 and 4. As per the judgment of the Supreme Court, if there is failure in any one of the five conditions, the approval cannot be granted. It has been rightly dismissed.

5. There being no illegality or perversity, I do not find any reason to interfere. This writ petition stands dismissed with the above. Connected miscellaneous petitions is closed. No costs.

13.06.2023

nst

Index : Yes/No

Speaking : Yes/No

Neutral Citation Case : Yes/No

V.LAKSHMINARAYANAN,J



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To:
The Special Deputy Commissioner of Labour,
D.M.S.Compound,
Chennai.

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and
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