



W.P.No.8923 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.8923 of 2019

The Management
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Represented by its General Manager,
Cuddalore Region,
Cuddalore – 607 002.

... Petitioner

Vs.

1.R.Pulendran

2.The Special Deputy Commissioner of Labour,
Chennai – 600 006.
Respondents

...

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the orders dated 20.03.2017 in A.P.No.291/2011 passed by the Special Deputy Commissioner of Labour, Chennai and quash the same.

For Petitioner : Mr.M.Aswin

For R1 : Mr.A.V.Arun

Assisted by Ms.M.A.Arunueshe

For R2 : Mr.D.Gopal, GA



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ORDER

Challenge in this writ petition is made to the orders dated 20.03.2017 in A.P.No.291/2011 passed by the Special Deputy Commissioner of Labour, Chennai.

2.The first respondent was working as a driver in the petitioner Management. Since he was unauthorisedly absent for 18 days, on different occasions, a charge memo was issued to him. After conducting a domestic enquiry, he was removed from service with effect from 30.07.2011. Thereafter, the petitioner Management filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 in A.P.No.291/2011 before the Special Deputy Commissioner of Labour, Chennai. The Special Deputy Commissioner of Labour, Chennai vide its orders dated 20.03.2017 dismissed the petition on the ground that the Management did not file a petition for approval simultaneously along with the order of removal of service and that there is a delay of 18 days. Aggrieved over the same, the present writ petition is filed.



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3. Mr.M.Aswin, learned counsel for the writ petitioner contended that as per Section 33(2)(b) of the Industrial Disputes Act, 1947, no outer time limit is indicated and that the Special Deputy Commissioner of Labour was wrong in dismissing the petition only on the sole ground that the approval petition was not filed simultaneously. It is also his submission that the Special Deputy Commissioner of Labour did not take into consideration that the respondent unauthorisedly absented himself from attending duty for 18 days.

4. The first respondent filed a writ petition in W.P.No.22612/2018 before this Court for directing the petitioner Management to reinstate him into service. The learned single Judge of this Court (Hon'ble Mr.Justice D.Krishnakumar) had passed an interim order on 20.09.2018 directing the petitioner Management to reinstate the first respondent into service and thereafter, he was reinstated into service. Subsequently, W.P.No.22612/2018 was allowed vide orders dated 10.12.2018.



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5. In the decision in *Lalla Ram Vs DCM Chemical Works Limited* reported in (1978) 3 SCC 1, it has been held that the employer has to file an approval petition simultaneously or within such reasonably short time as to form part of the same transaction apply to the authority before which the main Industrial Dispute is pending for approval of the action taken by him. In the instant case, admittedly there is a delay of 18 days and therefore, the orders passed by the Special Deputy Commissioner of Labour, Chennai, is perfectly in order and I do not see any reason to interfere with the same.

6. Accordingly, this Writ Petition is dismissed. The orders dated 20.03.2017 in A.P.No.291/2011 passed by the Special Deputy Commissioner of Labour, Chennai, is confirmed. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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R. HEMALATHA, J.
mtl

To

1.The Special Deputy Commissioner of Labour,
Chennai – 600 006.

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