



W.P.No.12898 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12898 of 2021
and
W.M.P.No.13704 of 2021

The Management,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Kancheepuram Region,
Bangalore National Highway,
Karaipettai Post, Near Ponnerikarai,
Kancheepuram – 631552.

... Petitioner

..Vs..

1. A.Dasarathan
2. The Special Joint Commissioner of Labour,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records relating to the order dated 16.10.2018 passed in A.P.No.318 of 2014 on the file of the second respondent herein and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the second respondent herein to approve the order of the petitioner dated 16.12.2014 dismissing the first respondent herein from service.



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For Petitioner : Mr.M.Aswin,
Standing Counsel

For Respondents : Mrs.Akila Rajendran,
Government Advocate (for R2)

Mr. N.Ishak (for R1)

ORDER

The Writ Petition has been filed to quash the order dated 16.10.2018 passed in A.P.No.318 of 2014 on the file of the second respondent herein and to consequently direct the second respondent herein to approve the order of the petitioner dated 16.12.2014 dismissing the first respondent herein from service.

2. The case of the Petitioner is that the first respondent herein was dismissed from service by order dated 16.12.2014. The first respondent was working as a Driver in the Petitioner/Transport Corporation and he was unauthorisedly absented from duty from 04.04.2012 to 17.06.2012 against the Rule 24(6) (A) of the Standing Order of the Petitioner Corporation. Hence, the Petitioner/Transport Corporation issued charge memo against him and conducted disciplinary proceedings. The charges were proved against the first respondent in the



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enquiry. Thereafter, he was dismissed from service by the Petitioner/Transport Corporation. Therefore, the Petitioner/Transport Corporation had filed a petition under Section 33(2)(b) of the Industrial Disputes Act, 1947, seeking to grant approval for the order of dismissal of the first respondent.

3. The learned counsel for the Petitioner/Transport Corporation submitted that before passing an order dated 16.12.2014, the authority ought to have appreciated the fact that by following all due process of law, the first respondent herein has been dismissed from service. He further submitted that the authority ought to have allowed the approval petition and approved the decision taken by the Petitioner/Transport Corporation as the unauthorized absence of the first respondent had caused major operational problems. He also submitted that the order dated 16.10.2018 dismissing the approval petition has resulted in irreparable loss and prejudice. Hence, the learned counsel for the Petitioner/Transport Corporation prayed that the relief sought for in the Writ Petition may be granted.



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4. The learned counsel for the first respondent submitted that the second respondent has considered the facts in proper perspective and has also appreciated the case of the first respondent and accordingly, the approval petition of the Management was rejected by the second respondent. He further submitted that the second respondent has passed the impugned order considering the merits and the facts by following due process of law. The first respondent herein has participated in the enquiry proceedings held on 30.09.2013 and explained the facts before the Enquiry Officer. He also submitted that only after following the principles of natural justice, the impugned order has been passed by the second respondent. Hence, he prayed that the impugned order may be confirmed and the Writ Petition may be dismissed.

5. Heard both sides and perused the materials available on record.

6. The first respondent appeared before the second respondent and gave his explanation, which had been rightly considered by him. On a perusal of the impugned order, it is seen that the second respondent has examined the application for approval made by the Petitioner with



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reference to the relevant aspects stipulated in the decision of the Hon'ble

Supreme Court of India in *Lalla Ram -vs- D.C.M.Chemical Works Ltd.*

[(1978) 3 SCC 1]. Therefore, it is evident that the second respondent has considered the facts and after following the principles of natural justice, dismissed the approval petition filed under Section 33(2)(b) of the Industrial Disputes Act, 1947. In such circumstances, there does not appear to be any irregularity or infirmity in the impugned order.

7. Accordingly, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

The Special Joint Commissioner of Labour,
Chennai.



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V.BHAVANI SUBBAROYAN,J.

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