



W.P. No. 34903 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No. 34903 of 2016
and W.M.P. No. 30051 of 2016**

The Management,
State Express Transport Corporation Tamil Nadu Limited,
Pallavan Salai,
Chennai – 2,
Represented by its General Manager

... Petitioner

-VS-

1. S.Mariappan, Conductor

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

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records passed by he second respondent in A.P.No.308/2011 dated 28.12.2015 and to quash the same.

For Petitioner

: M/s.K.Kathiresan

For R1

: No appearance

For R2

: Mr.S.John J.Raja Singh,
Additional Government Pleader



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ORDER

This petition has been filed seeking to quash the order passed by the second respondent in A.P.No.308/2011, dated 28.12.2015.

2. The facts leading to the filing of the present Writ Petition is that the first respondent was working as a Conductor in the Corporation of the petitioner. The Checking Inspector, while intercepting the vehicles, found that the second respondent was in inebriated condition and issued a Charge-Memo dated 09.06.2010, for which, no reply has been submitted by the second respondent. An Enquiry Officer was appointed to conduct an enquiry into the alleged charges, who in turn concluded with the proof of charge vide his report. A show-cause notice dated 30.03.2011 was also issued to the first respondent calling for the remarks of the charges. The first respondent had submitted his reply, which did not evoke any modification of punishment and he was dismissed from the Corporation on 22.08.2011. Subsequently, the petitioner filed an Approval Petition in A.P. No. 308 of 2011 before the Special Joint Commissioner of Labour (Conciliation) under Section 33(2)(b) of the Industrial Disputes Act, 1947, who in turn rejected the petition vide order dated 28.12.2015 in A.P. No. 308 of 2011 on the ground that there was a failure on



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the part of the Management to make out a *prima facie* case for the dismissal of the first respondent. Aggrieved thereby, the petitioner is constrained to move the present Writ Petition.

3. The learned counsel for the petitioner submitted that admittedly, the first respondent was working with the petitioner. While checking the bus, the Checking Inspector has found that the first respondent was in an inebriated condition and the same was proved before the enquiry. After fulfilled enquiry, the first respondent was dismissed from service. In order to prove the fact, the petitioner has marked entire documents before the Labour Court. But the Labour Court has failed to consider the facts and circumstances of the case, rejected the approval petition. The said decision is contrary to the decision of the Hon'ble Supreme Court reported in *1978 SC 1004 in the case of Lalla Ram Vs. Management of DCM. Chemical Works Ltd., and others.*

4. Heard the learned counsel for the petitioner and perused the materials available on record. There is no representation on behalf of the first respondent. Since the writ petition has filed in the year 2016, this Court is inclined to dispose of the case on perusal of the available records.



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5. The facts of the case are not in dispute. Admittedly, the first respondent was working as a Conductor in the petitioner management. In the year 2010, while the first respondent was in duty, the Checking Inspector has found that he consumed alcohol. Therefore, the petitioner Management issued charge memo and after enquiry, the charges were proved and he was terminated from service. Thereafter, the petitioner Management has filed approval petition before the second respondent and the same was rejected.

6. This Court called for records and perused the same. On perusal of the records, it reveals that the enquiry report and other documents were placed before the Labour Court so as to enable the Labour Court to find out with regard to the fairness of the enquiry. On perusal of the records, this Court found out that the issue has not been considered by the authority before issuing the order of termination.

7. In such view of the matter, the petitioner Management having not placed the materials with regard to the enquiry, which was conducted by them before the Labour Court, and further the enquiry having not been conducted in a fair and proper manner and the Enquiry officer has not given sufficient opportunity to the first respondent and the workman was terminated from and



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further, one month salary was also not paid to the first respondent, the order passed by the second respondent is perfectly in order, which need not be interfered with. Accordingly, the prayer sought for by the petitioner cannot be granted.

8. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

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Rli

Index: Yes/No

NCS : Yes/No

To

The Special Deputy Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.



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M.DHANDAPANI, J.

Rli

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