



W.P.No.24992 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.24992 of 2018
and
W.M.P.No.29028 of 2018**

The Management,
Tamil Nadu State Transport Corporation Salem Limited,
12, Ramakrishna Road,
Salem - 7.

... Petitioner

Vs.

M.Rajamanickam,
S/o.V.Manickam

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the order dated 14.09.2017 passed by the Special Deputy Commissioner of Labour in A.P.No.306 of 2014 and to quash the same.



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For Petitioner : Mr.R.Babu

For Respondent : Ms.L.Sweety

ORDER

The impugned order dated 14.09.2017 made in A.P.No.306 of 2014 passed by the Special Deputy Commissioner of Labour, is under challenge in the present Writ Petition.

2. The petitioner is the Management (Tamil Nadu State Transport Corporation). The respondent was working as Conductor and had remained unauthorisedly absent from 07.09.2013 without prior permission. Based on the charge memo issued dated 01.10.2013 on the charges of unauthorised absence, an enquiry was conducted and order of dismissal was passed against the respondent on 20.11.2014. One month salary was also sent to the respondent by way of Demand Draft dated 21.10.2014 for a sum of Rs.22,217/- along with the dismissal order. Approval Petition was filed before the Special Deputy Commissioner of Labour by the petitioner



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Management, wherein the Commissioner of Labour rejected the said Approval Petition in A.P.No.306 of 2014 vide order dated 14.09.2017. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner submits that the Commissioner of Labour has passed an impugned order without considering the gravity of the misconduct committed by the respondent workman and that the impugned order has been passed without taking into note the principles laid down in the case of ***Lalla Ram vs. D.C.M.Chemical Works Ltd., and another*** reported in ***(1978) 3 SCC 1***. He further submits that the respondent workman has been continuously absent from 07.09.2013 till the date of dismissal. The order of dismissal was dated 20.11.2014 and the Approval Petition was sent to the authority on 20.11.2014, i.e., on the same day. However, the Commissioner of Labour considered the date of filing of the Approval Petition was dated 27.11.2014 and citing the delay of seven days in filing the Approval Petition, has dismissed the same and the same is impermissible. Therefore, the learned



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counsel for the petitioner Management seeks for setting aside of the order passed in A.P.No.306 of 2014.

4. The learned counsel for the respondent submitted that the delay in filing of the Approval Petition before the authority is fatal and that no reason has been stated by the petitioner Management before the Commissioner of Labour explaining the delay in filing of the Approval Petition. Hence, the order passed by the Commissioner of Labour is sustainable and the learned counsel seeks for dismissal of the Writ Petition.

5. This Court has carefully considered the said submissions made on both sides and the materials placed on record.

6. The issue arises in the present Writ Petition has already been dealt with by this Court in W.P.No.1526 of 2017 seeking to quash the dismissal of the Approval Petition filed by the Transport Corporation. The said Writ Petition was dismissed by a learned Single Judge of this Court by



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order dated 30.07.2021 by relying upon the judgment reported in **1962 (1) LLJ 420 [Strawboard Manufacturing Company v. Gobind]**. The Tamil Nadu State Transport Corporation took up it on appeal in W.A.No.1559 of 2022 and the same was dismissed by the Division Bench of this Court vide judgment dated 18.07.2022 holding that the ratio laid down by the Hon'ble Supreme Court is squarely applicable to the facts and circumstances of the case that any delay caused in filing the Approval Petition would be fatal to the Management and hence, there should not be any delay in filing the Approval Petition.

7. In the instance case also, there is delay in filing the Approval Petition and therefore, the judgment of the Division Bench of this Court upholding the order of the learned Single Judge relying upon the judgment of the Hon'ble Supreme Court is squarely applicable to the facts and circumstances of the present case.



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8. Accordingly, this Writ Petition is dismissed in the above terms.

No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

1. The Management,
Tamil Nadu State Transport Corporation Salem Limited,
12, Ramakrishna Road,
Salem - 7.
2. The Special Deputy Commissioner of Labour,
Chennai - 600 006.



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