



W.P. No.2720 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No.2720 of 2018
and WMP.No.3366 of 2018**

The General Manager
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.
Cuddalore Region,
Cuddalore.

...Petitioner

Vs

1. P. Selvaraj

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

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari to call for the records of the 2nd Respondent made in A.P.No.153/2011 dated 10.08.2016 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.Aswin

For Respondent : Mr.B.Ramamoorthy R1
R2 – No appearance

ORDER

This petition has been filed seeking to quash the order passed by the 2nd Respondent made in A.P.No.153/2011, dated 10.08.2016. .

2. It is the case of the petitioner that the first respondent was working as a



W.P. No.2720 of 2018

driver in the Chidambaram Depot. For the unauthorized absent of duty from 21.07.2008 till 23.03.2009, the first respondent was issued charge memo on 11.08.2009 by the petitioner Management and the first respondent submitted a reply on 06.03.2010 for the said charge memo. Since there was no proper explanation submitted, the petitioner was constrained to appoint an enquiry officer to enquire into the aforesaid charges. The enquiry was conducted and charges were proved and the enquiry officer submitted a report. Based on the said report, the petitioner Management dismissed the first respondent from service on 08.04.2011 and thereafter, the petitioner filed an approval petition before the Labour Court and the same was rejected by the Labour Court vide impugned order dated 10.08.2016 in A.P.No.153/2011. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that admittedly the first respondent was unauthorized absent and he has not reported duty from 21.07.2008 without any prior intimation. For the unauthorized absent, the first respondent ought to have produce the evidence for the reason of his absence, but the first respondent has not produced sufficient document before the Labour Court. Therefore, the petitioner has rightly dismissed the first respondent from service, however, the second respondent approval authority mechanically



W.P. No.2720 of 2018

rejected the approval petition. The said decision is contrary to the decision of the

Hon'ble Supreme Court reported in *MANU/SC/0268/1978 in the case of Lalla Ram Vs. Management of DCM. Chemical Works Ltd., and others.*

4. Per contra, the learned counsel for the respondent submitted that though the petitioner management claim that the enquiry was conducted in fair and proper manner and after providing opportunity, the workman was dismissed from service. The Labour Court, after perusing the enquiry report, found that no opportunity was given to the workman and enquiry was not conducted in a fair manner and also one month salary was not paid to the workman. Therefore, the Labour Court has rightly rejected the approval petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

6. The facts of the case are not in dispute. For the unauthorized absent of the first respondent, the petitioner management issued charge memo and conducted enquiry. After conducting enquiry, the first respondent was dismissed from service. Thereafter, the petitioner Management filed approval petition



W.P. No.2720 of 2018

before the Labour Court and the same was rejected.

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7. The issues that arise in the present case are whether the Labour Court has followed the guidelines framed by the Hon'ble Apex Court in the case of Lalla Ram as stated supra; whether the enquiry was conducted in a fair and proper manner; whether the prima facie available against the workman for passing the order of termination of service and whether one month salary was paid.

8. 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.

9. 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



W.P. No.2720 of 2018

opportunity to the first respondent and the workman was terminated from and further, the petitioner management issued a cheque for a sum of Rs.18,412/- as last drawn wages but the petitioner has deducted the Dearness allowance and other allowance which are legally entitled along with wages. On the sole ground the Labour Court has rejected the approval petition, which is perfectly in order and the same cannot be interfered with by this Court.

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

01.09.2023

Rli

Index: Yes/No

NCS : Yes/No

To

1. The District Collector,
Coimbatore District.

2. The Deputy Commissioner of Labour,
Coimbatore District, Coimbatore.



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W.P. No.2720 of 2018

M.DHANDAPANI, J.

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W.P. No.2720 of 2018

01.09.2023