



W.P.No.24587 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24587 of 2023

And

W.M.P.No.24008 of 2023

The Management
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Pudukottai Region,
No.51/1, Pillai Thannir Pandhal,
Thirumayam Road,
Pudukottai – 622 001.

... Petitioner

Vs.

1.M.Malarselvan

2.The Special Joint Commissioner of Labour,
DMS Campus,
Anna Salai,
Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the order dated 27.01.2023 passed by the second respondent in Approval Petition No.139 of 2020 and quash the same, consequently direct the second respondent to approve the order of the petitioner dated 31.08.2020 dismissing the first respondent from service.



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For Petitioner : Mr.S.Sathya Gandhi
For Respondents : Mr.M.S.Prem Kumar for R2
Government Advocate

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, call for the records pertaining to the order dated 27.01.2023 passed by the second respondent in Approval Petition No.139 of 2020 and to quash the same, consequently direct the second respondent to approve the order of the petitioner dated 31.08.2020 dismissing the first respondent from service.

2.The case of the petitioner is that the first respondent was working as daily wage Conductor in the petitioner Corporation and he absented for duty from 24.04.2018 without any leave letter. The first respondent also did not submit his original Secondary School Leaving Certificate sought by the petitioner for regularizing him into service. It is a misconduct contemplated under Standing Order 24(6)(a) and (40) of the Standing Orders of the petitioner Corporation and hence, the first respondent was issued with a charge memo dated 27.02.2019.

3.The further case of the petitioner is that thereafter enquiry was conducted and the Enquiry Officer submitted his report dated

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09.04.2019, based on which, the petitioner issued show cause notice dated 11.07.2019 and thereafter, passed the order of dismissal dated 31.08.2020 as against the first respondent. Thereafter, the petitioner filed approval petition under Section 33 (2) (B) of the Industrial Disputes Act before the second respondent, however, the second respondent rejected the approval petition. Challenging the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner sent the order of dismissal dated 31.08.2020 to the first respondent along with cheque bearing no.703000 dated 31.08.2020 for a sum of Rs.13,299/- towards payment of one month salary and the approval petition was filed within seven days which is well within the time, however, the second respondent rejected the approval petition which is not sustainable one.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the second respondent.

6.This Court perused the impugned order. The impugned order reveals that though the petitioner claim that they have disbursed one



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month salary of Rs.13,299/- to the first respondent along with the dismissal order, no document was produced before the second respondent to substantiate that the first respondent's last drawn salary was Rs.13,299/-. Hence, the second respondent was not able to arrive at a conclusion as to whether one month salary was paid to the first respondent or not. Further, the order of dismissal was passed on 31.08.2020, whereas, the approval petition has been filed on 08.09.2020, which is beyond the period of one week, which is impermissible one.

7.In view of the above, this Court is not inclined to interfere with the impugned order. The writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

22.08.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai,
Chennai.

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