



W.P.No.27246 of 2019
and W.M.P.No.26653 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.27246 of 2019
and W.M.P.No.26653 of 2019

The Management,
Tamil Nadu State Transport Corporation (Salem) Limited,
Dharathipuram, Salem Main Road,
Dharmapuri - 5. ... Petitioner

Vs.

1.M.Mathanraj
2.The Special Joint Commissioner of Labour,
Chennai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the orders dated 25.07.2018 in A.P.No.86/2013 on the file of the Special Joint Commissioner of Labour, Chennai and quash the same.

For Petitioner : Mr.R.Babu
For R1 : No appearance
For R2 : Ms.P.Vijaya Devi



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ORDER

The first Respondent M.Mathanraj was working as a Conductor in the petitioner Tamil Nadu State Transport Corporation (Salem) Limited. Since he absented himself from attending duty since 21.12.2011, a charge memo was issued to him. Since the first respondent did not give his explanation and also did not appear for the enquiry proceedings he was set ex parte and the enquiry officer held that the charges were proved. Subsequently, second Show Cause Notice was issued to him and he was removed from service with effect from 08.01.2013. Thereafter, the Management filed an Approval Petition under Section 33(2)(b) of the Industrial Disputes Act before the Special Joint Commissioner of Labour, Chennai in A.P.No.86/2013 seeking approval of their action. The Special Joint Commissioner of Labour, Chennai, vide his orders dated 25.07.2018 dismissed the petition on the sole ground that the first respondent was not given any opportunity to explain his stand especially when he was hospitalized continuously in Meenakshi Mission Hospital, Madurai and has also undergone a by-pass surgery. Aggrieved over the said orders, the present writ petition is filed.



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2. Mr.R.Babu, learned counsel for the writ petitioner would contend that though the first respondent was continuously absent, the Special Joint Commissioner of Labour, Chennai had held that the enquiry was not conducted properly. It is his further contention that the charge memo was actually served on the first respondent and that he neither submitted his explanation nor participated in the enquiry proceedings. In the circumstances, it is not fair on the part of the Special Joint Commissioner of Labour, Chennai to come to a conclusion that there is violation of principles of natural justice in the enquiry proceedings.

3. It is seen from the records that the first respondent was admitted in Meenakshi Mission Hospital, Madurai and had a by-pass surgery. In fact, he has sent sufficient documentary evidence before the concerned authorities in this regard to the Branch Manager of the petitioner Management and these documents were not considered by the Enquiry Officer. In the circumstances, the orders passed by the Special Joint Commissioner of Labour, Chennai, is perfectly in order and I do not see any reason to interfere with the same.



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4. Accordingly, this Writ Petition is dismissed. The orders dated 25.07.2018 in A.P.No.86/2013 on the file of the Special Joint Commissioner of Labour, Chennai, is confirmed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

The Special Joint Commissioner of Labour, Chennai.



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R. HEMALATHA, J.

mtl

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