



W.P.No.14259 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14259 of 2017

And

W.M.P.No.15464 of 2017

The Management
Tamil Nadu State Transport Corporation (Villupuram) Ltd.
Cuddalore Region,
Cuddalore – 02
Rep. by its General Manager ... Petitioner

Vs.

1.The Special Deputy
Commissioner of Labour
DMS Compound,
Chennai.

2.M.Kannadasan ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the order passed by the first respondent in A.P.No.29 of 2015 dated 18.07.2016 and to quash the same.

For Petitioner : Mr.M.Aswin
For Respondents : Mr.M.S.Prem Kumar for R1
Government Advocate
Mr.T.Pichappa for R2



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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the order passed by the first respondent in A.P.No.29 of 2015 dated 18.07.2016 and to quash the same.

2.The case of the petitioner is that the second respondent was appointed as Conductor in the petitioner Corporation and on 09.12.2009, while he was in duty in route no.239, on a routine check, the Checking Inspector found that there was various irregularities found in the issuance of tickets that the second respondent filed to issue tickets to three passengers; has resold tickets to two passengers and was possessing Rs.94/- more than the collection amount. Hence, a charge memo dated 14.12.2009 was issued to the second respondent and after enquiry, was dismissed from service on 14.04.2010.

3.The further case of the petitioner is that after a period of four years, a complaint was raised before the first respondent under Section 33 (A) of the Industrial Disputes Act, 1947 that no approval petition was filed by the petitioner and hence, the petitioner filed



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approval petition under Section 33 (2) (b) of the Industrial Disputes Act in A.P.No.29 of 2015 before the first respondent and the first respondent vide order dated 18.07.2016 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 second respondent was dismissed from service after conducting domestic enquiry and fair opportunity was given to the second respondent during the domestic enquiry and thereafter dismissal order was passed. Further one month salary was paid to the second respondent. However, all these aspects were not properly considered by the first respondent while passing the impugned order.

5.The learned counsel appearing for the second respondent submitted that during the pendency of this writ petition, the second respondent passed away and hence, this Court may issue direction to the petitioner to settle the terminal benefits due to the second respondent in favour of his legal heirs.

6.Heard the arguments advanced on either side and perused



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the materials available on record.

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7.Perusal of impugned order reveals that the documents relating to enquiry proceedings were not marked as exhibit before the first respondent and hence the first respondent could not decide as to whether the enquiry has been conducted as per the guidelines issued in the decision of the Hon'ble Apex Court reported in AIR 1978 © 1004 (Lalla Ram Vs. Dcm chemical Works) and that the petitioner has not proved that there was prima facie case for dismissal of the second respondent. The first respondent has further observed that one month salary was not fully paid to the second respondent and that approval petition has been filed belatedly after a lapse of four years. Accordingly, the first respondent has rejected the approval petition. Hence, the impugned order warrants no interference.

8.Since the second respondent has passed away during the pendency of this writ petition, the petitioner is directed to settle the entire terminal benefits due to the second respondent in favour of his legal heirs, within a period of six weeks from the date of receipt of a copy of this order.



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9.The writ petition is dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

The Special Deputy Commissioner of Labour,
DMS Compound,
Chennai.



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M.DHANDAPANI,J.
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