



WEB COPY



W.P.No.28609 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28609 of 2017

And

W.M.P.No.30777 of 2017

The Management
Tamilnadu State Transport
Corporation (Villupuram) Limited
Kancheepuram Region,
Ponneri Karai,
Bangalore National Highways,
Kancheepuram
Rep. by its Managing Director

... Petitioner

Vs.

1.M.Kumar

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

... 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 second respondent made in A.P.No.2/2013 dated 02.11.2016 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

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For Petitioner : Ms.S.Pavithra

For Respondents : Mr.M.S.Prem Kumar for R2
Government Advocate
R1 – Not ready notice

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the second respondent made in A.P.No.2 of 2013 dated 02.11.2016 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

2.The case of the petitioner is that the petitioner filed approval petition under Section 33 (2) (B) of the Industrial Disputes Act, 1947 before the second respondent seeking approval of the order of termination issued to the first respondent and the second respondent vide order dated 02.11.2016 rejected the approval petition. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that based on the basic report received from the controller of the depot that the first respondent was unauthorizedly absent from 14.01.2011, the petitioner issued charge memo dated 07.03.2011 to



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the first respondent. Being not satisfied with the explanation given by the first respondent, the petitioner appointed enquiry officer to conduct enquiry and the enquiry officer conducted enquiry.

4.The learned counsel appearing for the petitioner further submitted that in the enquiry, the first respondent was given fullest opportunity and thereafter, the enquiry officer submitted his report on 19.04.2012. Enquiry report was furnished to the petitioner on 14.05.2012 and since he did not submit any reply, second show cause notice dated 07.08.2012 was issued to the first respondent and since the first respondent did not reply for the show cause notice, order of dismissal dated 20.03.2013 was passed against the first respondent and approval petition was filed before the second respondent, however, the second respondent rejected the approval petition, which is not sustainable one.

5.Though the writ petition has been filed during the year 2017, the petitioner has not taken any steps to serve notice on the first respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.



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6. Admittedly, the first respondent was unauthorizedly absent from 14.01.2011 for which, the petitioner issued charge memo dated 07.03.2011 to the first respondent. Thereafter domestic enquiry was conducted and order of dismissal was passed against the first respondent and approval petition was filed seeking approval of the order of dismissal and the said approval petition was rejected by the second respondent.

7. Perusal of the impugned order reveal that no document was placed before the second respondent to substantiate that necessary opportunity was given to the first respondent before passing the order of dismissal. In the absence of any document, the second respondent has rightly arrived at a conclusion that the petitioner has not followed the principles of natural justice and rejected the approval petition, which cannot be interfered with.

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

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

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To

- 1.The Special Deputy Commissioner of Labour,
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M.DHANDAPANI,J.
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