IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

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

W.P.No.31429 of 2018
and W.M.P.No.36623 of 2018

The Management,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Trichy Division, Trichy - 620 001. ... Petitioner

Vs.

1.P.Dhanaraj
2.The Special Joint Commissioner of Labour,
Chennai. ... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders dated 28.02.2018 in A.P.No.215/2013 on the file of the second respondent and quash the same and consequently, direct the second respondent to approve the order of the petitioner dated 11.07.2013 dismissing the first respondent from service.

For Petitioner	:	Mr.M.Murali Vinodh
For R1	:	Mr.M.Rajasekhar

ORDER

The first respondent P.Dhanaraj was working in the writ petitioner Corporation as a Driver. He absented himself from attending duty from 24.08.2011 to 23.10.2011. In this regard, a charge memo was issued to him. Thereafter, as per Section 24(6)(a) of the Standing Orders, a domestic enquiry was conducted and the Enquiry Officer held that the charges are proved against the first respondent. Subsequently, a second show cause notice was issued to him and the Disciplinary Authority dismissed the first respondent from service with effect from 11.07.2013.

2.The writ petitioner Corporation filed an Approval Petition under Section 33(2)(b) of the Industrial Disputes Act in A.P.No.215/2013 before the Special Joint Commissioner of Labour, Chennai. The said petition was dismissed on 28.02.2018 on the ground that 'the punishment of dismissal from service for unauthorized absence is too harsh'. Aggrieved over the same, the present writ petition is filed.

3.Mr.M.Murali Vinodh, learned counsel for the writ petitioner would contend that though the first respondent absented himself for more than two months, the Special Joint Commissioner of Labour, Chennai had held that the department had imposed harsh punishment by way of dismissing the first respondent from service. His further contention is that no plausible reason was given by the first respondent for his absence. He therefore contended that the order passed by the Special Joint Commissioner of Labour, Chennai is totally perverse.

4.Per contra, Mr.M.Rajasekhar, learned counsel for the first respondent would contend that the Special Joint Commissioner of Labour, Chennai, had passed a well reasoned order and there is no need for this Court to invoke Article 226 of Constitution of India.

5.It is seen from the records that the first respondent absented himself from attending duty between 24.08.2011 and 23.10.2011. In fact, he had informed the same to Traffic Assistant, Thuvarankurichi. Considering the past records of the first respondent, the Special Joint Commissioner of Labour, Chennai, relying on the decision of this Court in ***Tamil Nadu State Transport Corporation (Villupuram Division -1) vs Joint Commissioner of Labour (Conciliation), Chennai and another*** reported in ***2011-LLJ-646(Mad)*** had held that the dismissal of workman for unauthorized absence is too harsh. Considering the facts and circumstance of the case, I do not see any reason to interfere with the orders passed by the Special Joint Commissioner of Labour, Chennai.

6. Accordingly, this Writ Petition is dismissed. The orders dated 28.02.2018 in A.P.No.215/2013 on the file of the Special Joint Commissioner of Labour, Chennai, is confirmed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

27.11.2023

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

To

The Special Joint Commissioner of Labour,
Chennai.

R. HEMALATHA, J.

mtl

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