



WEB COPY



W.A.No.616 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.A.No.616 of 2024
and C.M.P.No.4334 of 2024

The General Manager,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangalore Highways, Kancheepuram. ... Appellant

Vs.

1.K.Murugan

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

PRAYER: Appeal is filed under Clause 15 of the Letters Patent for issuance of a Writ of Certiorari, to set aside the order dated 23.08.2023 made in W.P.No.22703 of 2017.

For Appellant : Mrs.S.Pavithra
Standing Counsel

For Respondents : Mr.S.T.Varadarajulu (for R1)

Mr.S.John J.Raja Singh (for R2)
Additional Government Pleader



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JUDGEMENT

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This Writ Appeal has been filed to set aside the order passed by a learned Single Judge of this Court dated 23.08.2023 made in W.P.No.22703 of 2017.

2. On the strength of proven charges, the 1st respondent herein was removed from service through an order dated 23.02.2021, by the Transport Corporation. However since certain conciliation proceedings were pending, an approval Petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 [hereinafter referred to as 'the Act'], was filed to the Deputy Commissioner of Labour, Chennai, in A.P.No.111 of 2012, which came to be rejected on 06.06.2014, predominantly on the ground that the application seeking for approval was belatedly filed after 32 days.

3. Challenging the same, the Transport Corporation has preferred the writ petition in W.P.No.22703 of 2017, which came to be rejected on 23.08.2023 by a learned Single Judge of this Court predominantly placing reliance on the judgment of the Hon'ble Supreme Court in **Lalla**



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Ram vs. Management of D.C.M. Chemical Works Ltd., [AIR 1978 SC

1004]. The order of the learned Single Judge is assailed in the present Intra Court Appeal.

4. Heard Mrs.S.Pavithra, learned standing counsel for the appellant / Transport Corporation, as well as Mr.S.T.Varadarajulu, learned counsel for the 1st respondent/workman and Mr.S.John J.Raja Singh, learned Additional Government Pleader for the 2nd respondent/Authority.

5. The proviso to Section 33(2) of the Act mandates two preconditions before discharging or dismissing any workman during the pendency of any conciliation proceeding pending before a Conciliation Officer, Labour Court, etc. The first precondition is that the employer is bound to pay one month wages at the time of discharge or dismissal and secondly, the employer is mandated to file an application to the authority before which the conciliation is pending, seeking for approval of the action taken by them. The Hon'ble Supreme Court, in **Lalla Ram's case (supra)**, as well as in several other decisions, has held that the approval application mandated under the proviso to Section 33(2) of the Act requires to be filed simultaneously with the order of dismissal or



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discharge and not later.

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6. Admittedly the approval petition under Section 33 (2)(b) of the Industrial Disputes Act, has been filed belatedly, after 32 days from the date of dismissal, which is legally impermissible. Thus, we do not find any illegality or any other infirmity in the findings of the learned Single Judge.

7. Accordingly this Writ Appeal stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [M.J.R., J]
19.10.2024

Index: Yes/No
Neutral Citation: Yes/No
Speaking/Non-speaking Order

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To

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



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