



WEB COPY



W.P. No.17499 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.17499 of 2015
and W.M.P. No.1 of 2015

The Management,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Dharmapuri.

represented by its General Manager ..

Petitioner

vs.

1. The Special Deputy Commissioner of Labour,
Chennai.

2. K. Vajravelu S/o. K. Kaveriappan ..

Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records in pursuant to the order passed in Approval Petition No.3 of 2010 dated 18.09.2013 on the file of the 1st respondent and quash the same.

For Petitioner : Mr. M. Aswin
Standing Counsel

For Respondents : Mr. T. Chezhan,
Additional Government Pleader
[for R1]

ORDER



W.P. No.17499 of 2013

This Writ Petition has been filed by the petitioner challenging the order passed by the 1st respondent in Approval Petition No.3 of 2010 dated 18.09.2013.

2. According to the petitioner, the 2nd respondent was working as Conductor in the petitioner Corporation. While so, on 28.07.2008, when the bus was plying on the route Hosur to Krishnagiri in Bus No.TN29/N1579, the checking officials stopped the bus at Melumalai on the bye pass road of Shoolagiri. At that time, there were 55 passengers, out of which, 47 passengeres had valid ticket issued by the 2nd respondent and the remaining group 8 passengers, who were travelling from Shoolagiri to Gurubarapalli were not having valid tickets. On enquiry with the passengers, it was found that the 2nd respondent had collected Rs.5/- per head and totally Rs.40/-, but not issued tickets. As such, he misappropriated Rs.40/- from 8 passengers at Shoolagiri and also shortage of Rs.130.50 in the cash bag. Therefore, a charge memo was issued on 29.07.2008 and he was suspended from duty for 30 days. The 2nd respondent has not submitted any explanation for the charge memo issued to him and thereafter, dometic enquiry was conducted by following principles of natural justice. As per the domestic enquiry, charges levelled against the 2nd respondent were proved and thereafter on



W.P. No.17499 of 2015

08.04.2009, the 2nd respondent called for remarks on the enquiry report and he submitted his explanation on 30.04.2009 and thereafter, disciplinary authority passed an order of dismissal from service on 24.10.2009. In the meantime, there was a wage dispute pending on the file of the 1st respondent. The petitioner Management sought the approval of the 1st respondent with regard to the dismissal under Section 33(2)(b) of the Industrial Dispute Act. The 1st respondent in its order dated 18.09.2013 has denied to grant approval for the dismissal of the 2nd respondent on the ground that the Approval petition was filed after a lapse of 2 1/2 months. Hence this Writ petition is filed.

3. The learned counsel appearing for the petitioner would submit that the 2nd respondent has misappropriated the funds of the Management and he has not issued tickets for the passengers and also there is a shortage of amount in the cash bag, thereby, charge memo was issued on the 2nd respondent and he did not give any explanation and thereafter, a domestic enquiry was conducted and the charges framed against the 2nd respondent were proved, thereby he was removed from service and thereafter they filed an Approval Petition before the 1st respondent. The 1st respondent has dismissed the approval petition on the ground that there is a delay of 2 1/2 months. The



W.P. No.17499 of 2015

enquiry was conducted by following the principles of natural justice. The case against the 2nd respondent was proved through documents and evidences and there is no any malafide intention to remove the 2nd respondent from service and one month salary was also paid to him, but the 1st respondent dismissed the petition on the ground that there is a delay of 2 1/2 months. Therefore, the order passed by the 1st respondent is liable to be set aside.

4. There is no representation for the 2nd respondent. Therefore, this Court heard the petitioner's side and passed order.

5. The petitioner Management has initiated the disciplinary proceedings as against the 2nd respondent for the charge that he collected fare from 8 passengers @ Rs.5/- each, but did not issue tickets and also kept a shortage of Rs.130.50 in the cash bag. Therefore, caused disturbance to the normal functioning of the establishment and those acts are grave in nature as per the certified standing orders of the Corporation. After disciplinary enquiry, the disciplinary authority has passed order of dismissal from service. The Writ petitioner Management Corporation has filed an Approval petition before the 1st respondent to approve the dismissal from service of the 2nd respondent. The 1st respondent declined to grant permission on the ground



W.P. No.17499 of 2015

that the approval petition was filed on 18.01.2010, but the termination order was passed on 24.10.2009. There is no any averments that the 2nd respondent refused to receive the order. Therefore, the delay of 2 1/2 months has not been properly explained. Therefore, dismissed the approval petition.

6. This Court also perused the order passed by the 1st respondent. The 1st respondent after referring the case of ***Lalla Ram vs. DCM Chemical Works reported in (AIR) 1978 (SC) 1004***, came to the conclusion that there was no any violation of any principles of natural justice and there are prima facie materials available as against the 2nd respondent as per enquiry report and also there is no any malafide intention to remove the 2nd respondent from service and one month salary was also paid to him. However, there is a delay of 2 1/2 months in filing the approval petition before the 1st respondent. The order was passed by the disciplinary authority on 24.10.2009, but the approval petition was filed only on 18.01.2010 after 2 1/2 months delay. Such delay has not been explained by the petitioner. Therefore, the order passed by the 1st respondent is in order and no any infirmity found in the order of the 1st respondent.

7. Moreover, the order was passed in the year 2009 and now after lapse



W.P. No.17499 of 2015

of 14 years, the 2nd respondent is continuing in service without any further adverse remarks. Therefore, it is not appropriate to interfere with the order passed by the 1st respondent.

8. In view of the above discussions, this Court is of the opinion that this Writ petition has no merits and deserves to be dismissed.

9. Accordingly, the Writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

05.12.2024

Index : Yes/No
Speaking order/non-speaking order
mjs

To

The Special Deputy Commissioner of Labour,
Chennai.s

P.DHANABAL, J.,



WEB COPY



W.P. No.17499 of 2015

mjs

W.P. No.17499 of 2015

05.12.2024