



W.P.No.22963 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.22963 of 2015

The Management,
Tamil Nadu State Transport Corporation
(Salem Division) Ltd.,
Bharathipuram, Salem Main Road,
Dharmapuri - 636 705,
rep. by its General Manager

... Petitioner

Vs.

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

2.G.Anbalagan

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records passed by the first respondent in A.P. No.475 of 2011 dated 18.06.2014 and to quash the same and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.M.Aswin

For R1 : Mrs.M.Jayanthi,
Additional Government Pleader

For R2 : Ms.V.Porkodi



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ORDER

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This writ petition has been filed, challenging the order of the Special Deputy Commissioner of Labour, rejecting the Approval Petition of the petitioner/Management on 18.06.2014 in A.P. No.475 of 2011.

2.The learned counsel for the petitioner submitted that the reason for rejecting the Approval Petition is that there is violation of principles of natural justice and that there is no prima facie evidence available to prove the charges against the second respondent.

3.The second respondent has been charged for misconduct on the allegation that the second respondent, who was working as a Conductor, has issued seven tickets, worth Rs.90/- on 30.04.2011 without punching and that he has received the ticket fare from the passengers in the previous stage and made an alteration in the invoice and has misappropriated a sum of Rs.1,980/- and carried the amount, which is less than Rs.35/-, collected towards the ticket fare. He was given with the punishment of dismissal from service based on the domestic enquiry conducted by the petitioner/



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Management. The Approval Authority has recorded the finding that there is no prima facie evidence to prove the charges against the second respondent and that the principles of natural justice has also not been followed.

4.The Approval Authority has appreciated the Approval Petition by stating the judgment of **Lalla Ram vs. DCM Chemical Works reported in AIR 1978 (C) 1004** to find out whether the essential five aspects, pointed out in the above judgment, has been complied with. For complying with the principles of natural justice, the Authority has recorded that the essential witnesses, like the passengers from whom the statement has been obtained by the Ticket Checking Inspector, have not been examined during the domestic enquiry and that the driver of the bus, who was examined as Management side witness, has stated that he has just made an endorsement as per the statement made by the Ticket Checking Inspector and that the passengers did not make any complaint though the amount collected from them.



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5.The learned counsel for the petitioner submitted that it is not possible for the Management to bring the driver on the alleged day as no one will come forward to depose evidence and the driver of the bus, being the Colleague of the second respondent, would not have supported the Management. The first respondent/Approval Authority did not choose to appreciate the merits of the evidence and find out the prima facie evidence on the basis of the report of the Ticket Checking Inspector. It is further submitted that strict rules of evidence do not apply to the domestic enquiry and the Approval Authority cannot assume the role of the Appellate Authority over the disciplinary authority and reappraise the evidence.

6.When the Ticket Checking Inspector has given a report stating that the second respondent has misappropriated the funds in improper manner, it is obligatory on the part of the Management to prove the same during the domestic enquiry. Though strict rules of evidence cannot be the standard of proof during domestic enquiry, atleast for the sake of preponderance of probability and to probabalise the charges made against the delinquent as true, some essential witnesses ought to have been examined. In the absence



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of any passenger witness, the Management had examined the driver of the bus. The evidence of the driver also did not have materials to support the charges levelled against the second respondent. In such case, it would be difficult for the appropriate authority to get satisfied that the prima facie evidence is available to prove the charge against the second respondent. Though the statement has been obtained from some of the passengers with their addresses, the Management did not even make any request to the enquiry officer to send summons to produce those witnesses. In such circumstances, the order of the Approval Authority rejecting the Approval Petition cannot be found fault.

7. In view of the above, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes / No
Speaking order / Non-speaking order
vga

To
The Special Deputy Commissioner of Labour,
DMS Compound, Anna Salai,
Chennai.



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R.N.MANJULA ,J.

vga

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