



W.P.No.29362 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.29362 of 2015
and M.P.No.1 of 2015

The Management
Tamil Nadu State Transport Corporation (Salem) Ltd.,
No.12, Ramakrishna Road,
Salem – 636 007
Rep. by its General Manager. ... Petitioner

/vs/

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

2. R.Murugan ... 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.77 of 2012 dated 14.04.2014 and to quash the same and against the provisions of the Industrial Disputes Act, 1947.



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For Petitioner	...	Mr.Aswin
For R1	...	Mrs.M.Jayanthy Additional Government Pleader
For R2	...	Mr.P.Jagadeesan

ORDER

Heard Mr.Aswin, the learned counsel for the petitioner, Mrs.M.Jayanthy, the learned Additional Government Pleader for R1, Mr.P.Jagadeesan, the learned counsel for R2.

2. This writ petition has been filed challenging the order of rejection dated 14.04.2015 made in A.P.No.77/2007 passed by the first respondent for approval of the order of dismissal made against the second respondent.

3. The second respondent has been dismissed from service on the alleged misconduct of unauthorized absence. When the order of dismissal has been submitted for getting approval from the first respondent, it was rejected on the observation that the conditions contemplated under Section 33 (2)(b) of the ID Act has not been complied.



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4. On perusal of the impugned order dated 14.04.2014 it is seen that the first respondent appropriate authority has relied on the judgment of the Hon'ble Supreme Court in ***Lalla Ram Vs. DCM Chemical Works*** reported in ***AIR 1978 © 1004*** to find out whether the guidelines in the said judgment has been complied in the present case before according approval to the order of dismissal. From the order of the first respondent it appears that the enquiry has been conducted *ex parte* and the second respondent has not been given with appropriate opportunities and hence it is violation of principles of natural justice. It is further observed that the petitioner has not paid the one month wages and for that no documents have been submitted.

5. The learned counsel for the petitioner submitted that the appropriate authority has lost sight of the fact that the petitioner has produced a photocopy of the cheque paid to the second respondent towards one month salary. The impugned order of the first respondent authority is in contradictory in respect of all the documents produced by the petitioner



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and in which the photocopy of the cheque for one month salary is found.

However while discussing the merits it is observed that the petitioner did not produce any document to substantiate the fact that one month salary is settled to the second respondent.

6. Apart from the above reasons there are other reasons attributed for rejecting the approval. It is further observed that the order has been passed *ex parte*. The petitioner claims that notice have been served on the second respondent properly and in this regard Exs.P3 and P4 (Enquiry notices) have been furnished. However, it is stated that notices have been sent through RPAD without filing any supporting documents and a copy of the notice alone is furnished stating that notice has been served. The petitioner cannot expect the appropriate authority to accept the same.

7. Since there are other violations other than payment of one month salary, I feel that the order passed by the first respondent in A.P.No.77 of 2012 dated 14.04.2014 does not require any further interference.



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WEB COPY 8. In view of the above discussions, this Writ Petition is dismissed.

No costs. Connected miscellaneous petition is closed.

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Index: Yes / No

Speaking order / Non-speaking order

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To:

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



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R.N.MANJULA ,J.

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