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W.A.No.3003 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM :

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

W.A.No.3003 of 2024
and C.M.P.No.22533 of 2024

The Management,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd., Vellore Region,
Rangapuram, Vellore-632 009.

... Appellant

Vs.

1.G.Venkatesan

2.The Special Deputy Commissioner of Labour,
Chennai.

... Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, praying to
set aside the order passed by this Court made in W.P.No.12867 of 2019
dated 07.12.2023 and allow this Writ Appeal.



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For Appellant : Mr.T.Chandrasekaran

For Respondents : Mr.V.Ajoy Khose for R1
Mr.S.John J.Rajasingh
Additional Government Pleader
for R2

JUDGEMENT

(Judgement of this Court was delivered by M.S.RAMESH.J)

This Writ Appeal has been filed to set aside the order passed in W.P.No.12867 of 2019 dated 07.12.2023.

2. The case of the appellant / Management is that the first respondent / workman was working at the petitioner corporation as a driver. When the first respondent was driving the bus bearing No.TN-23-N-1829, he dashed a pedestrian due to his negligence. Due to severe head injury, he died after admitting him in a hospital. Thereafter, an enquiry was conducted and an order of dismissal was passed, dismissing the first respondent from service on 20.01.2014. Subsequently, an approval petition was filed by the Management and the same got rejected in A.P.No.25 of



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2014, on the ground that the Management had not followed the principles of natural justice while conducting the domestic enquiry and that there was a delay of 8 days in filing the approval petition under Section 33(2)(b) of the Industrial Disputes Act. Aggrieved by the said rejection order, the Management preferred a writ petition seeking quashment of the order of the second respondent and the same came to be dismissed by a learned Single Judge of this Court in W.P.No.12867 of 2019, on the ground that the Management had not filed the approval petition simultaneously as per the decision of the Hon'ble Supreme Court in the case of ***Lalla Ram vs. Management of D.C.M. Chemical Works Ltd.***, reported in [AIR 1978 SC 1004]. Challenging the said order, this Writ Appeal has been filed.

3. Heard Mr.T.Chandrasekaran, learned counsel for the appellant / Management and Mr.V.Ajoy Khose, learned counsel for the first respondent, as well as Mr.S.John J.Raja Singh, learned Additional Government Pleader for the second respondent.

4. It is a settled proposition of law that while a workman is imposed with a punishment of dismissal from the service when conciliation



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proceedings are pending, the Management is required to simultaneously make an application under Section 33(2)(b) of the Industrial Disputes Act, before the appropriate Authority seeking for approval of the action taken.

5. The Hon'ble Supreme Court in the case of ***Lalla Ram vs. Management of D.C.M. Chemical Works Ltd.***, reported in [AIR 1978 SC 1004], as well as in several other decisions, have reiterated that such an approval petition requires to be filed simultaneously, without any delay. Even cases with more than one day delay, have been held to be fatal to the Management. Admittedly, the first respondent herein was dismissed from service on 20.01.2014, and the Management had filed the approval petition under section 33(2)(B) of the Act only on 28.01.2014. Such a belated petition cannot be sustained in the eye of law as held in various decisions, including ***Lalla Ram's case (supra)***.

6. In view of the above, we do not find any infirmity in the order of the learned Single Judge, wherein reliance was placed on ***Lalla Ram's case*** and the claim of the Management was rejected.



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7. Accordingly, the Writ Appeal stands dismissed. No Costs.

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Consequently, connected miscellaneous petition is closed.

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

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

The Special Deputy Commissioner of Labour,
Chennai.



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