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W.P.No. 12429 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.12429 of 2024 and
W.M.P.No.13566 of 2024

The Management,
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishna Salai,
Salem - 636 007.

... Petitioner

Vs.

1.K.Jagan Mohan

2.The Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai - 6.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 01.12.2022 passed by the second respondent in Approval Petition No.112 of 2020 and quash the same and consequently, direct the second respondent to approve the order of the petitioner dated 17.08.2020 dismissing the first respondent from service.

For Petitioner : Mr.K.Raja
For Respondents : Mr.A.M.Ayyadurai, GA for R2
Mr.V.Ajoy Khose for R1



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ORDER

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This Writ Petition has been filed challenging the order of the appropriate authority passed under Section 33(2)(b) of the Industrial Disputes Act made in A.P.No.112 of 2020 by denying the approval for punishment of dismissal imposed on the first respondent workman.

2. Heard Mr.K.Raja, learned counsel for the petitioner, Mr.A.M.Ayyadurai, learned Government Advocate for R2 and Mr.V.Ajoy Khose, learned counsel for R1

3. The learned counsel for the petitioner Corporation submitted that the petitioner is a Corporation in which the first respondent was working as a Conductor. In the disciplinary proceedings initiated against him after arriving at a finding that the charges against the workman was proved, the petitioner Management has imposed the punishment of dismissal. When the punishment of dismissal was sent to the second respondent for approval, the second respondent has denied the approval by holding that the essential conditions laid down by the Hon'ble



Supreme Court in the case of ***Lalla Ram Vs. D.C.M.Chemical Works***

Ltd., and Another, reported in (1978) 3 SCC 1, were not complied. As per the above judgment, the following parameters have to be complied in order to get approval for the punishment of dismissal,

"12. The position that emerges from the above quoted decisions of this Court may be stated thus : In proceedings under [section 33\(2\)\(b\)](#) of the Act, the jurisdiction of the industrial Tribunal is confined to the enquiry as to (i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held; (ii) whether a prima facie case for dismissal based on legal evidence adduced before the domestic tribunal is made out; (iii) whether the employer had come to a bona fide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice and was not intended to victimise the employee regard being had to the position settled by the decisions of this Court in [Bengal Bhatdee Coal Co, v. Ram Probesh Singh\(1\)](#), [Titaghur Paper Mills Co. Ltd. v. Ram Naresh Kumar\(2\)](#), [Hind Construction & Engineering Co. Ltd. v. Their Workmen\(3\)](#), [Workmen of Messrs Firestone Tyre & Rubber Company of India \(P\) Ltd. v. Management &](#)



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Ors(4), and Eastern Electric and Trading Co. v. Baldev

Lal(5) that though generally speaking the award of punishment for misconduct under the Standing Orders is a matter for the management to decide and the Tribunal is not required to consider the propriety or adequacy of the punishment or whether it is excessive or too severe yet an inference of mala fides may in certain cases be drawn from the imposition of unduly harsh, severe, unconscionable or shockingly disproportionate punishment; (iv) whether the employer has paid or offered to pay wages for one month to the employee and (v) whether the employer has simultaneously or within such reasonably short time as to form part of the game transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him. If these conditions are satisfied, the Industrial Tribunal would grant the approval which would relate back to the date from which the employer had ordered the dismissal. If however, the domestic enquiry suffers from any defect or infirmity, the labour authority will have to find out on its own assessment of the evidence adduced before it whether there was justification for dismissal and if it so finds it will grant approval of the order of dismissal which would also



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relate back to the date when the order was passed provided the employer had paid or offered to pay wages for one month to the employee and the employer had within the time indicated above applied to the authority before which the main industrial dispute is pending for approval of the action taken by him."

4. The second respondent had also quoted five points of the above judgment, but he has chosen to render a finding that in the disciplinary action, the enquiry has not been conducted in compliance of the principles of natural justice and that there is no *prima facie* evidence available on record in order to prove the guilt of the first respondent.

5. The learned counsel for the petitioner submitted that the above order of the second respondent is perverse and has been passed without considering the essential aspects of the matter. He further submitted that though the first respondent had undergone surgery, he did not choose to return duty after he got recovered. The repeated notices sent to the first respondent were managed to be returned as though the first respondent



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was not available in the address. But the second respondent in his order has observed that in view of the injury sustained by the second respondent, he was not able to perform the functions of the conductor.

6. The first respondent has submitted a request to consider his health condition and allow him to undertake light duty. The first respondent was also referred to medical examination by appearing himself before the Medical Board at Kumaramangalam Medical College. The appropriate authority has recorded in the impugned order that the Management also did not deny the order and did not produce any materials to show that such step has not been taken. Only after making all these observations, the second respondent has arrived at a conclusion that the dismissal of the first respondent is not supported with reliable evidence and a *prima facie* case for dismissal has not been made out.

7. The learned counsel for the petitioner submitted that the Court has overlooked the fact that the first respondent continued to evade notice despite his family members were present. But the second



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respondent authority has dealt the acceptability of the evidence available on the side of the Management in a comprehensive manner and arrived at a conclusion that *prima facie* case for dismissal has not been established. Since some of the essential conditions contemplated under Lalla Ram's case has not been observed, the second respondent had chosen to deny the approval. In view of the above stated reasons, I find no reason for interference and no acceptable grounds has been raised by the petitioner.

8. In view of the same, this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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

The Joint Commissioner of Labour,
DMS Campus, Anna Salai,
Chennai - 6.



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R.N.MANJULA, J.

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