



WEB COPY



W.A.No.3113 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM :

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

W.A.No.3113 of 2024
and C.M.P.No.23760 of 2024

The General Manager,
State Express Transport Corporation
(Tamil Nadu) Limited,
Palavan Salai, Chennai-2.

... Appellant

Vs.

1.M.Ganesasankaran

2.The Special Deputy Commissioner of Labour,
D.M.S Compound,
Chennai.

... Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 31.08.2023 made in W.P.No.1736 of 2018 passed by this Court.

For Appellant : Mr.L.S.M.Hasan Fizal

For Respondents : Mr.S.T.Varadarajalu for R1
Mr.S.John J.Raja Singh
Additional Government Pleader
for R2



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JUDGEMENT

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

On charges of unauthorized absence, the first respondent herein, who was employed as a conductor in the appellant's corporation, was subjected to disciplinary proceedings and dismissed from service by an order dated 29.08.2011. Since conciliation proceeding touching upon the conditions of service of the workman was pending, the appellant had filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the Act'), seeking approval of the action taken.

2. Heard Mr.S.T.Varadarajalu, learned counsel appearing for the first respondent, as well as Mr.S.John J.Raja Singh, learned Additional Government Pleader appearing for the second respondent.

3. The second respondent herein, who is the authority under the Act, considered the application filed by the Management and had rejected the same on 10.04.2015, predominantly on two grounds. Firstly, the enquiry



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proceedings were not submitted before the second respondent and secondly, the one month's full wages were not paid to the workman.

4. 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], had spelt out the circumstances under which an authority should deal with an approval petition, which has been filed under Section 33(2)(b) of the Act. Among these circumstances, it was held that one month's full wages should be paid to the workman at the time of dismissal.

5. In the instant case, the Management had paid a sum of Rs.8,739/- through a cheque dated 29.08.2011, marked as Ext.P5, before the authority. The workman had marked his July month salary slip as Ext.R2, which evidences that after the deductions, he had received a sum of Rs.8,922/- as his one month wage. Apparently, the full month wage of Rs.8,922/- has not been paid when the Management had passed the dismissal order.

6. Before the second respondent, the Management had not substantiated as to how they were justified in paying a reduced amount of



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Rs.8,739/- as full month wages. Even before the learned Single Judge, they have not substantiated this aspect. When the full month wage has not been paid as mandated under Section 33(2)(b) of the Act, the action of the appellants in passing the order of punishment would be illegal, as laid down by the Hon'ble Supreme Court in ***Lalla Ram's case*** (*supra*).

7. In this background, we do not find any infirmity either in the order of the second respondent or the learned Single Judge. As such, there are no grounds in the Writ Appeal and accordingly, the same stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

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

29.10.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

The Special Deputy Commissioner of Labour,
D.M.S Compound,
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