



WP.No.26808 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

**CORAM:
THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**W.P.No.26808 of 2021
and
WMP.No.26242 of 2021**

The Management of
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai 600 002.

...

Petitioner

versus

1. The Special Joint Commissioner of Labour
D.M.S. Complex, IV floor,
Teynampet, Chennai 600 006.

2.M.Thiyagarajan

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the order passed in A.P.No.78 of 2019 dated 09.08.2021 on the file of 1st respondent, Chennai-6 and quash the same.

For Petitioner : Mr.C.Gauthamaraj,Senior Counsel
For Respondents : M/s.M.Jayanthi, AGP for R1
: M/s.S.T.Varadarajulu for R2

ORDER

The Writ Petition has been filed challenging the order of the appropriate



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authority made under Section 33(2)(b) of the Industrial Dispute Act in rejecting the approval for the order of dismissal of the 2nd respondent consequent to the disciplinary action initiated against him.

2. Heard Mr.C.Gauthamaraj, learned Senior Counsel for the petitioner and M/s.M.Jayanthi, learned Additional Government Pleader for the 1st respondent and Mr.S.T.Varadarajulu, learned counsel for the 2nd respondent and perused the materials available on record.

3. Mr.C.Gauthamaraj, learned Senior Counsel for the petitioner submitted that despite the petitioner's management has complied all the essentials laid down by the Hon'ble Supreme Court in the case of *Lalla Ram vs Management Of D.C.M. Chemical Works* reported in *AIR 1978 Supreme Court 1004*, the appropriate authority has passed the order of misconstruction that the petitioner did not produce the enquiry proceedings before the authority.

4. While answering the first mandate whether the domestic enquiry has been conducted in compliance of the principles of the natural justice. The appropriate authority has rendered a finding that it cannot be ascertained whether the proceedings have been conducted in compliance of the principles of natural justice in the absence of production of proceedings of the domestic enquiry. But in the list of documents attached with the impugned order, as Ex.P6 and Ex.P7, the enquiry proceedings and the enquiry report are marked as



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documents.

5. It appears that the appropriate authority, has overlooked the above documents and without taking them into consideration for proper appreciation he has rendered a finding that the enquiry proceedings are not available to render a concrete finding in this regard.

6. It is further submitted that while answering the 4th point whether the petitioner had paid one month salary and thereby complied the mandatory condition, the authority has rendered a finding that no material has been produced to show that the respondent has been given one month salary. However, the petitioner has not properly appreciated Ex. M1 while answering the above point and there is no mention about any reference about Ex.M1 and Ex.M2. As the impugned order has been passed without considering the essential fact and not appreciating the documents which have been filed before the authority concerned, I feel the impugned order is liable to be set-aside and the matter is remitted back to the file of 1st respondent for fresh disposal.

7. In view of the above stated reasons, this Writ Petition stands **allowed**. The impugned order passed in A.P.No.78 of 2019 dated 09.08.2021 on the file of 1st respondent is set aside and the matter is remanded back to the file of the 1st respondent to reappraise the documents in the light of the above observation and pass orders afresh thereafter. There shall be no order as to costs.



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Consequently, the connected miscellaneous petition is closed.

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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

jrs

To

The Special Joint Commissioner of Labour
D.M.S. Complex, IV floor,
Teynampet, Chennai 600 006.



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R.N.MANJULA, J.

jrs

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