



W.P. No.26789 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM:

THE HON'BLE MS. JUSTICE R.N. MANJULA

W.P. No.26789 of 2024 and W.M.P. No.29294 of 2024

P.Pachaiyappan

Petitioner

vs.

1. The Special Joint Commissioner of Labour
DMS Buildings, Mount Road
Chennai
2. The General Manager
Tamil Nadu State Transport Corporation (Salem) Limited
Dharmapuri Region
Dharmapuri
3. The Branch Manager
Tamil Nadu State Transport Corporation (Salem) Limited
Krishnagiri Rural Branch
Krishnagiri

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records from the file of the first respondent in A.P. No.141 of 2011 dated 24.04.2024 and quash the same and consequently, direct the second respondent to reinstate the petitioner into service and grant him all service benefits, monetary and other attendant benefits from the date of his illegal dismissal on 19.05.2011.



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For petitioner	Mr. V. Karthikeyan
For R1	Mrs. M. Jayanthi
	Additional Government Pleader
For RR 2 & 3	Mr. M. Aswin
	Standing Counsel

ORDER

This writ petition impugns the order dated 24.04.2024 passed in A.P.No.141 of 2011 on the file of the first respondent authority, in and by which, approval was granted for the punishment of dismissal from service imposed on the petitioner by the second respondent Management.

2. The petitioner was given a charge memo for producing false certificate in order to secure appointment. At the conclusion of domestic enquiry, charges levelled against the petitioner were held to be proved and as a sequitur, the petitioner was imposed with the punishment of dismissal from service. When the proposal for dismissal of the petitioner was forwarded by the second respondent Management to the first respondent authority under Section 33(2)(b) of the Industrial Disputes Act, 1947, the first respondent authority, finding that the essential conditions *qua* dismissal of the petitioner have been complied with by the second respondent Management, granted approval *vide* order dated 24.04.2024, which is put to challenge in this writ petition filed by the workman on the ground that the first respondent authority has not appreciated the materials placed before him in the proper perspective.



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3. Heard the learned counsel for the parties and perused the materials available on record.

4. So far as approval of an application filed under Section 33(2)(b), *ibid.*, is concerned, the authority concerned is expected to see whether the following guidelines issued by the Supreme Court in **Lalla Ram vs. Management of D.C.M. Chemical Works Ltd. and another¹**, have been complied with by the employer:

"(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;

(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 same transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him."

¹ (1978) 3 SCC 1
<https://www.mhc.tn.gov.in/judis>



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5. In the instant case, while appreciating the matter, the first respondent has found that the enquiry proceedings have been conducted in accordance with the principles of natural justice, *prima facie* case has been made out, acceptable evidence is available on record to prove the charges levelled against the petitioner, there is no victimisation involved in the dismissal of the petitioner, the petitioner has been given one month's last drawn wages and the approval petition has been filed soon after a decision was taken to dismiss the petitioner.

6. In such perspective of the matter, this Court is of the view that the first respondent authority has passed the impugned order only upon complete satisfaction that the essential requirements as contemplated in **Lalla Ram**, *supra*, have been duly complied with by the second respondent Management.

7. In view of the foregoing discussion, this Court does not find any reason whatsoever to interfere with the impugned order passed by the first respondent authority. However, it is open to the petitioner to raise an industrial dispute assailing the order of dismissal, if at all he is so advised.

In the upshot, this writ petition stands dismissed, however, sans costs.



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Connected W.M.P. stands closed.

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R.N. MANJULA, J.
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