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W.A.No.803 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

**THE HONONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONONOURABLE MR. JUSTICE P.DHANABAL**

**W.A.No.803 of 2024
and
C.M.P.No.5438 of 2024**

The Management,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region,
Trichy-1.

... Appellant

Vs.

1. M.Periyasamy,
S/o Muniyandi

2. The Special Deputy Commissioner of Labour,
DMS Compound,
Chennai - 600 006.

...Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the
dismissal order dated 23.06.2023 made in W.P.No.11614 of 2015 passed
by the learned single of this Court.



W.A.No.803 of 2024

WEB COPY

For Appellant : Mr.M.Muruali Vinoth
For Respondents : Mr.M.Elumalai
for Mr.S.Ramachandran for R1
Mr.T.Chezhian
Government Advocate for R2

J U D G M E N T

(The Judgement of the Court was delivered by J.Nisha Banu,J.)

This Writ Appeal has been filed as against the dismissal order dated 23.06.2023 made in W.P.No.11614 of 2015 passed by this Court.

2. The brief facts of the case of the appellant are as follows:

The 1st respondent joined as a driver in the Appellant Transport Corporation on 22.07.1988 by producing a bogus certificate that he has passed 8th standard from M.K.L. Hindu Middle School, Arakkonam. A charge memo was issued and after giving sufficient opportunity, the 1st respondent was dismissed from service on 18.04.2012. Thereafter, the Corporation filed a petition under 33(2) (B) of the Industrial Disputes Act before the Special Deputy Commissioner of Labour, Chennai, 2nd respondent for getting approval to the termination of the 1st respondent. However, the 2nd respondent, by order dated 05.12.2013, refused to approve the order of dismissal dated 18.04.2012 and also held that the



W.A.No.803 of 2024

charges against the 1st respondent are not proved. Challenging the order passed by the 2nd respondent dated 05.12.2013, the appellant preferred a writ petition in W.P.No.11614 of 2015 before this Court. This Court, vide order dated 23.06.2023, dismissed the writ petition confirming the order passed by the 2nd respondent and holding that the 1st respondent is entitled to all the consequential benefits in lieu of the said order. Hence, the present appeal.

3. Learned counsel for the appellant would state that the 2nd respondent, while exercising jurisdiction under section 33(2) of the Industrial Dispute Act has to see whether a *prima facie* case has been made out as regards the validity or otherwise of the domestic enquiry held against the delinquent employee for initiating disciplinary proceedings against him and it cannot re-appreciate the evidence. In the present case, the 2nd respondent, while dealing with the approval petition had substituted his own view that the dismissal order deserves to be set aside on the ground that the specific witness, who gave the report and the District Elementary Educational Officer need to be examined. Thus, according to the appellant, the 2nd respondent committed an error in



W.A.No.803 of 2024

WEB COPY

rejecting the approval petition and the learned single Judge of this Court also confirmed the said rejection order. Learned counsel for the appellant would further state that the 2nd respondent came to a wrong conclusion that the dismissal order is a revenge activity. It is well known to the authority that creating the bogus certificate and joining a government undertaking like the appellant Corporation is a grave misconduct. Therefore, the order passed by the 2nd respondent needs intervention by this Court.

4. Per contra, the learned counsel appearing for the 1st respondent would state that the workman had produced the certificate showing that he possessed the required qualification and that has not been considered. The Management had received a letter sent by the District Elementary Education Officer forwarding a letter of the Assistant Elementary Education Officer, Arakkonam, containing the Transfer Certificate (T.C.). He would further state that the person who gave evidence was not the Assistant Elementary Education Officer or the District Education Officer but the Superintendent of the Appellant Management. The 2nd respondent, on considering all the factual aspects of the case, has passed



W.A.No.803 of 2024

the impugned order and the same needs no interference.

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5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. A perusal of the impugned order shows that a charge memo was issued to the 1st respondent/workman for submitting a false certificate, thus, cheating the Corporation and joined duty. The 1st respondent submitted his explanation and domestic enquiry was also conducted. In the enquiry, the false certificates claimed to have been issued by the concerned Educational Officer were marked as management side documents but the person who was alleged to have given the false document was not examined by the management. The principles laid down in the decision reported in *AIR 1978 (SC) 1004 Lalla Ram Vs. Management of DCM Chemicals*, has been correctly followed by the Labour Court and has held that the genuineness of the record sheet of the 1st respondent was not confirmed, as no efforts were taken to examine the officer who issued the certificate to the 1st respondent and also held that there is no prima facie case made out under enquiry for



W.A.No.803 of 2024

WEB COPY

passing the order of dismissal. Therefore, we are of the view that the order passed by the Writ Court, confirming the order passed by Labour Court, need not be interfered with.

7. In the result, the Writ appeal fails and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (P.D.B., J.)

10.06.2024

Index : Yes / No
Internet : Yes
vsi

To

The Special Deputy Commissioner of Labour,
DMS Compound,
Chennai - 600 006.

J. NISHA BANU, J.



WEB COPY



W.A.No.803 of 2024

and
P.DHANABAL,J.

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W.A.No.803 of 2024

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