



WEB COPY



W.P.Nos. 31805 & 32550 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.Nos. 31805 & 32550 of 2024

and

W.M.P.No. 35379 & 34564 of 2024

W.P.No. 31805 of 2024

The Management,
Tamil Nadu State Transport,
Corporation (Kumbakonam) Limited,
Pudukottai Region,
51/1, Pillai Thanneer Pandhal,
Thirumayam Road,
Pudukottai – 622 001.

... Petitioner

Vs

1. A.Iqbal
2. The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, call for the records pertaining to the order dated 06.11.2023 passed by the second respondent in Approval Petition No. 8 of 2023 and quash the same and consequently direct the second respondent to approve the order of the petitioner dated 23.01.2023 dismissing the first respondent from service.



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W.P.No. 32550 of 2024

The Management,
Tamil Nadu State Transport,
Corporation (Kumbakonam) Limited,
Trichy Region,
Tiruchirapalli- 620 001.

... Petitioner

Vs

1. M.Manikandan
2. The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, call for the records pertaining to the order dated 27.11.2023 passed by the second respondent in Approval Petition No. 18 of 2023 and quash the same and consequently direct the second respondent to approve the order of the petitioner dated 31.01.2023 dismissing the first respondent from service.

For both W.Ps.

For Petitioner : Mr.M.Murali Vinoth

For R2 : Mr.K.Surendran
Additional Government Pleader



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ORDER

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These two writ petitions are identical in nature and as such, are taken up together and disposed of by this common order.

2. The first respondent in these two writ petitions, namely A. Iqbal and M.Manikandan are the regular workmen under the petitioner management. While so, on charges of unauthorised absence, a disciplinary enquiry was conducted and they were dismissed from service. As per the 12(3) settlement entered into the trade unions, the petitioner management had filed an application for approval under Section 33(2)(b) before the second respondent, seeking approval for the punishment orders. Even before the second respondent, both these workmen remained absent. Subsequently, even at the ex-parte stage, the second respondent took up the issue of considering the dismissal orders.

3. As per the judgement in Lalla Ram, the second respondent found that the enquiry was fair and proper and that there was evidence to prove the charge and that the one month wages had been given. However, only



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considering the fact that the dismissal order was on 23.01.2023 and the petition for approval was filed on 30.01.2023, the approval was rejected. I am of the view that the said finding cannot stand, when the management has taken only seven days to file the approval petition, it cannot be treated as any undue delay or for that matter, any delay at all. Therefore, the orders of the second respondent in both matters are liable to be set aside.

4. Before this Court, even though notices were served on the first respondent workmen and an affidavit of service was filed, none appeared for the first respondent workmen.

5. As stated above, the delay of only seven days cannot be treated as fatal. Accordingly, the orders impugned in the writ petitions are set aside and the writ petitions are allowed as prayed for. Consequently, connected miscellaneous petitions are closed. No costs.

20.12.2024

Neutral Citation: Yes/No
nsl



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D.BHARATHA CHAKRAVARTHY, J.

nsI

To
The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai.

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20.12.2024