



W.P.(MD)No.16756 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2024

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.16756 of 2018 &
W.M.P.(MD)No.14834 of 2018

The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-Pass Road, Collectorate Post,
Dindigul - 624 004.

...Petitioner

vs.

1.The Special Deputy Commissioner of Labour,
O/o.Commissioner of Labour,
Chennai - 600 006.

2.R.Murugesan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the first respondent in Approval Petition in A.P.No.475/2012 dated 12.09.2017 and quash the same.

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondents : Mr.P.Thambidurai,
Government Advocate for R1

No appearance for R2



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ORDER

This writ petition is filed challenging the order of the first respondent dated 12.09.2017, refusing to grant approval to the dismissal of the second respondent from service, in terms of provisions of Section 33(2)(B) of the Industrial Disputes Act, 1947.

2. The learned counsel appearing for the petitioner Transport Corporation would submit that the second respondent who is the Conductor after receipt of a sum of Rs.37/- from two female passengers each, failed to give tickets to them and thereby swindled a sum of Rs.74/- and caused loss to the petitioner Transport Corporation. In this regard, disciplinary proceedings was initiated, wherein, they decided to dismiss the second respondent from service. For grant of approval to the order of dismissal, a petitioner under Section 33(2)(B) of the Industrial Disputes Act was filed before the Special Deputy Commissioner of Labour, Chennai, who is the first respondent herein. However, the first respondent dismissed the said petition.



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3. The learned counsel appearing for the petitioner Transport Corporation would further submit that during the Internal Enquiry, the petitioner allowed the second respondent to cross examine the witness on their side. However, without considering the said aspect, the first respondent rejected the approval petition by non-application of mind. Hence, the present petition.

4. The learned Government Advocate appearing for the first respondent would submit that in the present case, neither the passengers nor the driver was examined as a witness by the petitioner Transport Corporation. Further, there was no previous record of swindling by the second respondent. The first respondent herein took into consideration all these aspects and correctly rejected the Approval Petition. Therefore, the present petition is liable to be dismissed.

5. I have given due consideration to the submissions made by the learned counsel for the petitioner and the learned Government Advocate



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appearing for the first respondent and perused the materials available on record.

6. According to the petitioner Transport Corporation, they have incurred loss to the tune of Rs.74/- since the second respondent did not issue ticket to two female passengers and in that regard, they also conducted an Internal Enquiry and decided to remove the second respondent from service. Since according to the petitioner, the second respondent caused loss to the Corporation, they ought to have taken steps to examine those two female passengers along with co-passengers and the driver of the bus in order to prove the loss incurred by them. However, that was not done so. Without examination of any witness, only based on the Internal Enquiry, they have come to the conclusion that the second respondent swindled a sum of Rs.74/-. Obviously, the vital evidences have not been examined. Under such circumstances, the first respondent refused to approve the order of dismissal of the second respondent from service. Therefore, I do not find any error on the part of the Special Deputy Commissioner of Labour, Chennai in his decision



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making process and I do not find any substance in the submissions made on the side of the petitioner. Hence, this petition is liable to be dismissed.

7. Accordingly, the Writ Petition stands dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

06.11.2024

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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To

The Special Deputy Commissioner of Labour,
O/o.Commissioner of Labour,
Chennai - 600 006.



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KRISHNAN RAMASAMY, J.

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