



W.P.No.2579 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.2579 of 2025

and

W.M.P.No.2892 of 2025

The Management,
Rep. by its General Manager,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Vellore Region, Rangapuram,
Vellore – 9. ... Petitioner

Vs.

1.M.Surendiran
2.The Special Joint Commission of Labour,
D.M.S. Campus, Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records passed by the 2nd respondent in A.P.No.44 of 2021 dated 24.04.2024 and to quash the same as illegal.

For Petitioner : Ms.S.Pavithra

For Respondents : Notice dispensed with [R1]
Mr.M.Bindhran
Additional Government Pleader [R2]



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ORDER

WEB COPY This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorari, to call for the records passed by the 2nd respondent in A.P.No.44 of 2021 dated 24.04.2024 and to quash the same as illegal.

2. Since no adverse order has been passed against the 1st respondent, notice to the 1st respondent is dispensed with.

3. Mr.M.Bindhran, learned Additional Government Pleader, takes notice on behalf of the 2nd respondent. With the consent of the learned counsel appearing for the petitioner as well as the 2nd respondent, this Writ Petition is taken up for final hearing at the stage of admission itself.

4. The case of the petitioner is that, the first respondent appointed as driver in the petitioner Corporation on 15.10.2010. Whiles, without any prior intimation, he had absented himself from service continuously from 05.06.2017 till the date of dismissal, thereby, a charge memo dated 06.07.2017 was issued. Thereafter, he was removed from service on 20.01.2021. Subsequently, the petitioner Corporation made an application in A.P.No.44 of 2021 under Section 33(2)(b) of the Industrial Disputes



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Act, 1947 (in short 'the Act') for approval of the termination, which was ultimately rejected by order dated 24.04.2024. Challenging the same, the above writ petition is filed.

5. Learned counsel appearing for the petitioner submits that, the Labour Court has to consider the approval petition under Section 33(2)(b) in terms of the law laid down by the Apex Court in the case of ***Lalla Ram Vs. Managment of D.C.M. Chemicals Works Ltd. & Ors.*** reported in ***AIR 1978 SC 1004***, in which, the Apex Court has prescribed the procedure to be followed while deciding the approval petition. However, contrary to the said procedure, the Labour Court has rejected the approval petition filed by the petitioner Corporation.

6. Further, he submits that the 1st respondent ought to have derived the findings as to shortfall of one month wage after considering the number of days worked by him before his dismissal who is a daily paid, but cannot draw any interference as if he was regular employee only on production of the salary details subject to government orders, which is not applicable to 1st respondent. Accordingly, he prays for allowing the writ petition.



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WEB COPY 7. Learned counsel appearing for the second respondent submitted that, by considering all the materials, the Labour Court rightly rejected the approval petition filed by the petitioner, which is wholly sustainable. Accordingly, he prays for dismissal of the writ petition.

8. Heard the learned counsel for the petitioner as well as the second respondent and perused the materials available on record.

9. Admittedly, the petitioner Corporation has passed the order of dismissal as against the first respondent on the ground of unauthorized absence from duty, for which, the petitioner Corporation filed an approval petition before the Labour Court under Section 33(2)(b) before the second respondent/Labour Court. It is an undisputed fact that the approval petition has to be decided based on the law laid down by the Apex Court in the case of ***Lalla Ram Vs. Managment of D.C.M. Chemicals Works Ltd. & Ors.*** reported in ***AIR 1978 SC 1004***, wherein the Apex Court held as under :-

"(i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held;



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- (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."*

10. In the present case, all the above aspects has been elaborately considered by the Labour Court while rejecting the approval petition filed by the petitioner Corporation. It is evident from the materials available on record that, the one month wages was not paid by the petitioner in accordance with law, which was the reason, the Labour Court rejected the approval sought for. The order passed by the Labour Court does not suffer any perversity and the rejection of the approval petition is fully justified and the same cannot be interfered with.



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M.DHANDAPANI, J.

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11. Accordingly, the writ petition stands dismissed. However, the petitioner Corporation is directed to reinstate the first respondent with continuity of service, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected writ miscellaneous petition is closed.

03.02.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Special Joint Commission of Labour,
D.M.S. Campus, Chennai.

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