



W.P.No.1478 of 2012

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.1478 of 2012

The Management of Christian Medical College & Hospital,
Post Box No.3,
Ida Scudder Road, Vellore-632 004,
Rep.by its Mr.Hannah Paul,
Personnel Manager.

... Petitioner

Vs.

1.The Presiding Officer,
Industrial Tribunal,
Chennai.

2.G.Rajesh

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records connected with A.P.No.8 of 2011 in I.D.No.23 of 2010 on the file of the first respondent and quash the order dated 03.12.2011 made therein.

For Petitioner : Mr.Sanjay Mohan
for Mr.S.Ramasubramaniam and
Associates

For Respondents : R1-Tribunal
Mr.S.Rajkumar for R2



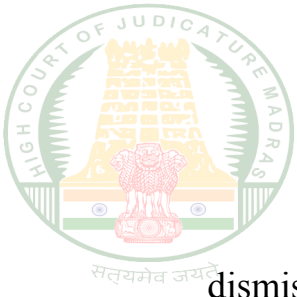
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ORDER

This Writ Petition has been filed challenging the order dated 03.12.2011 passed by the first respondent in A.P.No.8 of 2011 in I.D.No.23 of 2010.

2. The learned counsel appearing for the petitioner submits that the second respondent was appointed as Attender Grade-IV in the petitioner institution in the year 2007. On 22.10.2009, the Ward In-charge had given a complaint to the petitioner Management that a Policeman met with an accident and admitted in the hospital for treatment and his ATM card was misused by some body in the hospital. On enquiry, it was found that the second respondent has misused the ATM Card and withdrawn the amount. Thereafter, the Enquiry Officer was appointed and the second respondent admitted his guilt before the Enquiry Officer and on that basis, he was dismissed from service and thereafter, the petitioner Management filed an approval petition in A.P.No.8 of 2011 seeking approval of the order of



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dismissal before the first respondent under Section 33(2)(b) of the Industrial Disputes Act. However, the first respondent rejected the petition on the ground that there may not be possible for admission of guilt by the workman. Such a decision arrived at by the Labour Court is contrary to Section 33(2)(b) of the Industrial Disputes Act and ***Lalla Ram Vs. D.C.M. Chemical Works Ltd. and Ors.***, reported in ***AIR 1978 SC 1004***. Hence, he prays for allowing this writ petition.

3. The learned counsel appearing for the second respondent submits that as opportunity was provided to the respondent/workman before the enquiry proceedings, the first respondent / Tribunal, after considering the materials placed before it, has rightly rejected the approval petition which need not be interfered with by this Court.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent.



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5. A perusal of the award passed by the Labour Court reveals that the approval petition filed by the petitioner Management was dismissed mainly on the ground that there may not be possible for admission of guilt by the workman.

6. The issue raised in this writ petition is as to whether the Labour Court while exercising the power conferred under Section 33(2)(b) of the Industrial Disputes Act can assess the merits and demerits of the departmental enquiry. The Labour Court, while considering the approval petition filed under Section 33(2)(b) of the Act, has to consider the factual aspects as to whether fair opportunity was given to the delinquent employee before dismissing him/her from service and one month salary was paid and whether the approval petition was filed simultaneously as law laid down in ***Lalla Ram's*** case cited supra. However, in the present case, the Labour Court, overlooking the above factual aspects and contrary to the decision laid down in ***Lalla Ram's*** case, has rendered its finding and dismissed the



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approval petition filed by the petitioner Management seeking approval of the order of dismissal, which is unjustifiable. Hence, this Court, without expressing any opinion on the merits of the case, is inclined to set aside the impugned order dated 03.12.2011 passed in A.P.No.8 of 2011 in I.D.No.23 of 2010 by the first respondent and accordingly, it is set aside. However, liberty is granted to the second respondent/workman to work out his remedy in the manner known to law.

7. Accordingly, this Writ Petition is allowed on the above terms.

There shall be no order as to costs.

18.02.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

The Presiding Officer,
Industrial Tribunal,
Chennai.



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M.DHANDAPANI, J.

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