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W.P. No.2671 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.2671 of 2022

and

W.M.P. Nos.2825, 2827 and 2830 of 2022

1. C. Selvarani W/o. Late Pascal Antony Raj
2. A.P. Chiranjeevi Anandaraj S/o. Late Pascal Antony Raj
3. A.P. Carvin Agalya D/o. Late Pascal Antony Raj
4. Kulandai Mary M/o.Late Pascal Antony Raj .. Petitioners

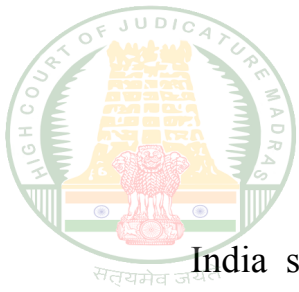
vs.

1. Tamil Nadu State Transport Corporation,
(Salem) Ltd., Division No.II,
represented by its Managing Director
Ramakrishna Road, Salem -636 407.

2. The General Manager,
Tamil Nadu State Transport Corporation,
(Salem) Ltd., Division No.II,
Bharathipuram, Dharmapuri - 636 407.

3. The Special Deputy Commissioner of Labour,
(now re-designated as Special Joint Commissioner
of Labour),
4th Floor, Labour Welfare Building,
DMS Compound, Chennai - 600 006. .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of



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India seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 2nd respondent bearing Pa. Mu No.84/4435/D1/TNSTC/2008 dated 18.01.2010 and the impugned order of the 3rd respondent in A.P. No.5/10 dated 08.07.2010 and to quash both the orders and consequently direct the respondents 1 and 2 to pay arrears of backwages from the date of dismissal from service of the deceased employee Mr. Pascal Antony Raj i.e., from 18.01.2010 to date of his death ie., 17.08.2011 and also to settle all the terminal benefits due and payable to the deceased employee like Provident Fund, Gratuity, monthly pension and pension arrears within a time frame.

For Petitioner : Mr. K.M. Ramesh, Senior Counsel
for Mr. V. Subramani.

For Respondent : Mr. Anand Gopalan for
Mr. K. Raja, Standing Counsel
[for R1 & R2]

Mr. E.P. Senniyanigiri,
Government Advocate [for R3]

ORDER

This Writ petition has been filed by the petitioner challenging the order issued by the 2nd respondent bearing Pa. Mu No.84/4435/D1/TNSTC/2008 dated 18.01.2010 and the impugned order of the 3rd respondent in A.P.

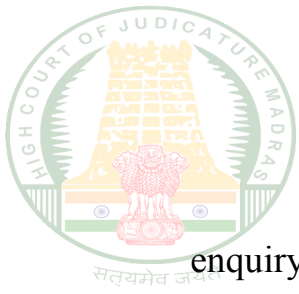


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No.5/10 dated 08.07.2010 and to quash both the orders and consequently direct the respondents 1 and 2 to pay arrears of backwages from the date of dismissal from service of the deceased employee Mr. Pascal Antony Raj i.e., from 18.01.2010 to date of his death i.e., 17.08.2011 and also to settle all the terminal benefits due and payable to the deceased employee.

2. The short facts necessary to dispose of the Writ petition are as follows:-

These petitioners are the legal heirs of the deceased Pascal Antony Raj, who was working as Junior Assistant in the 1st respondent Transport Corporation. The deceased workman joined in the 1st respondent's Corporation on 14.03.1991. While so, through an order dated 08.08.2008, the deceased workman was placed under suspension alleging that he had sent interview letters for the post of Conductor to those whose names were not sponsored by the District Employment Exchange for the period from 19.05.2007 to 05.06.2007 and he was issued a Charge Memo dated 09.10.2008. Thereafter, the workman submitted his detailed explanation on 20.10.2008 by denying the charges. However, the 1st respondent Corporation, being not satisfied with the explanation, ordered for domestic



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enquiry. During the pendency of the enquiry, the workman filed a W.P. No.2993 of 2009 challenging the order of suspension and thereby, he sought for adjournment of domestic enquiry indicating the above pendency of the Writ petition. Thereafter, due to ill-health, the workman did not attend the enquiry proceedings and the enquiry was proceeded with exparte. Thereafter, the Disciplinary Authority issued a Show Cause Notice for imposing punishment and the workman also submitted his explanation on 10.12.2009 and thereafter, he filed a Writ petition in W.P. No.52 of 2010 to consider his representation dated 11.11.2009 and requested to refix the date of enquiry. During the pendency of the Writ petition, on 17.08.2011, the husband of the 1st petitioner / deceased workman was found dead in suspicious circumstances. In the meantime, when the Writ petition came up for hearing, on 30.08.2011, without any instructions, issued a letter for withdrawal of the Writ petition and accordingly, the same was dismissed on 30.08.2011. Thereafter, an application was filed to restore the Writ petition and again it was listed for hearing on 07.07.2014 and the same was disposed of by directing the 1st respondent Corporation to consider the representation of the deceased. Pursuant to the directions issued by this Court, the 1st respondent Corporation issued an order dated 30.08.2014 stating that since the deceased

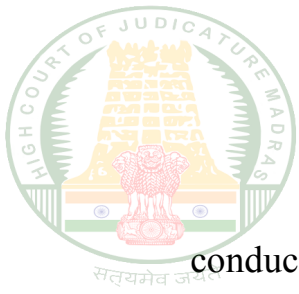


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workman did not appear before the Enquiry Officer on 10.07.2009, he was set aside and the enquiry was closed. The representation dated 11.11.2009 was received only on 12.11.2009 and therefore, the same could not be considered. Thereafter, the petitioners obtained information from the Commissioner of Labour through Right to Information Act and came to know that the approval was granted by the 3rd respondent under Section 33(2)(b) of the Industrial Disputes Act and notice was sent to the residential address of the deceased workman. Therefore, the petitioners challenged the punishment of dismissal from service passed by the Disciplinary Authority as well as the approval granted by the 3rd respondent / Approval Authority through this Writ petition.

3. The learned Senior counsel appearing for the petitioners would submit that these petitioners are the legal heirs of the deceased workman, who was employed under the 1st respondent Corporation. While he was on duty, a Charge Memo was issued to him alleging that he issued interview letters to the persons, whose names were not been sponsored by the District Employment Exchange for the post of Conductor for the period from 19.05.2007 to 05.06.2007. The deceased workman submitted his explanation and the same was not considered and thereafter, domestic enquiry was



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conducted. In the domestic enquiry proceedings, no opportunity was given to the workman. The workman was suspended. Challenging the said suspension, he filed a W.P. No.2993 of 2009. While pendency of the Writ petition, the 1st respondent Corporation conducted disciplinary proceedings and the workman sought for adjournment of enquiry indicating about the pendency of the Writ petition, but without his presence, the enquiry was conducted. In the meantime, the deceased was suffered by heart attack and therefore, he was unable to attend the enquiry. While so, without giving opportunity to the workman, the enquiry proceedings were conducted and based on the enquiry proceedings, the 1st respondent Corporation also issued Show Cause Notice after accepting the findings rendered by the Enquiry Officer that charges levelled against the workman were proved. Immediately, the workman filed a Writ Petition in W.P. No.52 of 2010 to consider his representation dated 11.11.2009 for refixing the date of enquiry. Thereafter, without giving opportunity to the deceased workman, the 1st respondent Corporation passed an order of dismissal from service. During the pendency of the petition, the employee died on 17.08.2011 on suspicious circumstances. Therefore, the petitioners were unable to know about the stage of the case and in the year 2018, they gathered information through Right to Information Act



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that the Commissioner of Labour granted approval for the punishment imposed by the disciplinary authority. Therefore, the petitioners challenged the said order through this Writ petition. There is a delay in challenging the above said order and the same is neither willful nor wanton. Without giving opportunity to the deceased workman, the domestic enquiry was conducted and approval was also granted. No opportunity was given and the Approval Authority has also granted approval without any speaking order. Without considering the principles laid down by the Hon'ble Supreme Court in *Lalla Ram's case*, the Approval Authority has granted approval without any speaking order. Therefore, the order passed by the Disciplinary Authority by dismissing the deceased workman from service through an order dated 18.01.2010 and the approval granted by the Approval Authority in A.P. No.5 of 2010 dated 08.07.2010 are liable to be quashed.

3. The learned counsel appearing for the respondents 1 and 2 would submit that the present Writ petition is liable to be dismissed on the ground of delay and laches and the punishment awarded in the year 2010 vide order dated 18.01.2010 and approval petition was allowed on 08.07.2010 and the deceased employee died on 17.08.2011. During his lifetime, the employee



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had not challenged the order. The 1st respondent conducted the domestic enquiry for the grave misconduct of the deceased workman after giving opportunity. The workman filed petitions as against the Management by challenging the suspension order and to consider his representation to adjourn the enquiry. Therefore, he had knowledge about the pendency of the enquiry proceedings and he wantonly failed to take part in the enquiry proceedings. Therefore, the enquiry was proceeded ex parte and after giving opportunity to the deceased workman, the Disciplinary Authority has passed the order. Even before the Approval Authority, the deceased workman did not appear for enquiry, despite receipt of notice. Therefore, the Approval Authority passed an order granting approval for the punishment of dismissal from service by the Disciplinary Authority. Therefore, the petitioners, being the legal heirs of the deceased workman, after having knowledge about the Writ petition, approached this Court in the year 2014 itself. Thereafter, they have not challenged the orders immediately and there is enormous delay in filing the Writ petition and even on merits, the Writ petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on



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record.

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5. In this case, the petitioners are the legal heirs of the deceased workman, who was working under the 1st respondent. Thereafter, he faced the charges for sending interview call letters to the candidates, who were not sponsored by the District Employment Exchange and thereafter, domestic enquiry was conducted. In the domestic enquiry proceedings, the deceased workman did not participate. Thereafter, the Disciplinary Authority served Show Cause Notice with respect to awarding of punishment. Thereafter, the workman approached this Court through a Writ petition in W.P. no.52 of 2010 and thereafter, no any notice was served in respect of punishment. Whether the order of punishment of dismissal from service was served to the workman or not, is also in dispute. There are no records available with the respondents to show that whether the dismissal order was served on the workman or not.

6. It is an admitted fact that the workman filed a Writ petition after receipt of the Show Cause Notice to give opportunity to him in the Disciplinary enquiry proceedings. Thereafter, no order was passed by the 1st



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respondent Corporation on the representation of the workman. In the meantime, the workman died on 17.08.2011 and the Disciplinary Authority passed the order on 18.01.2010. There are no records to show that notice was served to the workman intimating his termination. Thereafter, the 1st respondent Corporation filed an Approval petition before the Authority. The Approval Authority also passed an order dated 08.07.2010 by granting approval and the workman had not participated in the proceedings. There are no records to show that sufficient opportunity was given to the workman in the approval petition proceedings and the Approval Authority without discussing about the facts that whether any prima facie case found based on the acceptable evidence, victimization, whether one month salary was paid to the workman or not, whether the principles of natural justice were followed and the approval petition was filed simultaneously along with the dismissal order or within a short span of time.

7. The order passed by the Approval Authority is not a speaking order and passed only a two line order. It is against the principles laid down in the Hon'ble Supreme Court's judgment in ***Lalla Ram Vs. Management of D.C.M. Chemical Works Ltd. and Ors.***, It is true that the deceased has not



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challenged the order during his life time and according to the Disciplinary Authority, the dismissal order was passed on 18.01.2010, but there are no records to show that dismissal order was served on the deceased workman. As far as the approval petition is concerned, there are no records to show that notice was served on him. It is an admitted fact that the enquiry was an exparte enquiry. Without any discussion, the Approval Authority granted approval and the same cannot be accepted.

8. Merely because of the delay, the statutory rights of the parties cannot be curtailed. Therefore, the order passed by the Approval Authority is not in accordance with law and the same is liable to be set aside. There are no records to show that the enquiry was conducted after giving adequate opportunity to the deceased workman by following the principles of natural justice, there is a prima facie case based on the acceptable evidence and there is no victimization and one month salary was paid to the workman and the approval petition was filed simultaneously along with the dismissal order. It is true that the petitioners have to satisfy the Court for the delay and according to the petitioners, due to the demise of workman and to obtain the case particulars, there was a delay. Therefore, the Writ petition cannot be



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dismissed on the ground of 'delay and latches'. To render substantial justice in appropriate cases, only on the ground on 'delay and latches', the Court cannot dismiss the petition. This is the fit case to exercise the power under Article 227 of the Constitution of India. Accordingly, the Approval petition is dismissed and the order passed by the Approval Authority is set aside. Though this Court is inclined to set aside the order passed by the Approval Authority, since the workman died as early as on 17.08.2011 and there are no records found with the respondent Corporation, it is appropriate to Award a lumpsum compensation to the petitioners to meet the ends of justice.

9. Accordingly, this Court is of the opinion that it is appropriate to direct the respondents 1 and 2 to pay a lump sum compensation of Rs.5 lakhs **(Rupees Five Lakhs only)** to the petitioners within **two (2) months from the date of receipt of a copy of this order, failing which, the respondents 1 and 2 have to pay interest from the date of this order till realization of amount.**



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10. Accordingly, this Writ petition is partly allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No.

Speaking order/non-speaking order
mjs

To

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represented by its Managing Director
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P. DHANABAL, J.,

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