



W.P.No.26293 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.26293 of 2015

and

M.P.No.1 of 2015

The Management,
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
27, Railway Station New Road,
Kumbakonam – 612 001,
Represented by its General Manager. ... Petitioner

Vs.

1.K.Ramadoss

2.The Special Joint Commissioner of Labour (Conciliation),
DMS Compound,
Chennai. ... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India
pleased to issue a Writ of Certiorari, to call for the records passed by the
2nd respondent in A.P.No.46 of 2005 dated 06.09.2013 and to quash the
same.



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For Petitioner : M/s.M.Rohini

For Respondents : M/s.A.Athishayaa [R1]

Mr.K.Surendran

Additional Government Pleader [R2]

ORDER

The petitioner-Transport Corporation impugns the order of rejection passed by the 2nd respondent, namely Special Joint Commissioner of Labour, Chennai in A.P.No.46 of 2005, dated 06.09.2013.

2. The facts in a nutshell are as follows :-

The 1st respondent was working as a driver under the petitioner Corporation. The 1st respondent was charge sheeted for remaining absent for 31 days and 21 days in the months of February and March, 2004 without submitting any leave letter and prior intimation. The 1st respondent submitted his explanation; being not satisfied with the same, an enquiry officer was appointed, who conducted enquiry and submitted his report stating that the charges took proved. The 1st respondent was issued with second show cause notice and thereafter, he was dismissed



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from service. The petitioner has filed an approval petition before the 2nd respondent seeking approval of the dismissal of the 1st respondent. Before the 2nd respondent, the petitioner exhibited 13 documents to justify the dismissal of the 1st respondent. The 2nd respondent on an analysis of the entire materials placed before him refused to grant approval for dismissal of the 1st respondent by way of the impugned order. Challenging the same, the present writ petition has been filed before this Court.

3. Learned counsel appearing for the petitioner submitted that the labour court had framed five questions as mandated in the decision of 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***. The labour court was of the view that the petitioner has satisfied four necessary questions and failed to satisfy the alleged victimization pleaded by the 1st respondent. He further submitted that the issue of principles of natural justice and due process of law was followed and therefore, the 2nd respondent was not justified in rejecting approval



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petition. Therefore, he prayed that the impugned order be set aside and the writ petition be allowed.

4. Learned counsel appearing for the 1st respondent submitted that the 1st respondent had all along pleaded before the petitioner that he was being victimized and that was taken note of by the labour court and the labour court had correctly rejected the approval sought for by the petitioner. Therefore, he prayed that the impugned order may be sustained and the writ petition be rejected.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. Admittedly, the petitioner has dismissed the 1st respondent. While dismissing an employee, utmost care and caution should be taken by the employer. While dismissing an employee, it is not only the individual who gets affected, but his entire family. Therefore, while taking a drastic decision of dismissal from service, the petitioner should satisfy itself that each and every process is duly followed. In this case,



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the 1st respondent has alleged that he was victimized by the petitioner.

The 1st respondent has given an explanation that he was orally asked to report before the Trichy branch. When he reported before Trichy branch, he was asked to report before the Sirkali branch. According to the 1st respondent, the entire direction was only orally made and he was not given any written instructions. When such a plea is raised by the 1st respondent/workman, the petitioner should have adduced evidence in the contra and proved that the workman had taken leave without permission. The petitioner being a model employer should have proved the misconduct of the 1st respondent/employee with records. Nothing prevented the petitioner in giving written directions to the workman. On going through the impugned order, this Court is satisfied that the reasons given by the labour court for rejecting to grant approval to the petitioner corporation.

7. It appears that during the pendency of this writ petition, the 1st respondent died. Hence, the petitioner is directed to settle the entire terminal benefits to the legal heirs of the 1st respondent within a period of eight (8) weeks from the date of receipt of a copy of this order.



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8. With the above direction, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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

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(3/3)



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- 1.The General Manager,
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
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Kumbakonam – 612 001.
- 2.The Special Joint Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.



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M.DHANDAPANI, J.

sp

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