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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM:

**THE HONOURABLE MR. JUSTICE P.DHANABAL**

W.P.No.4748 of 2023

The Management,  
Tamil Nadu State Transport Corporation  
(Kumbakonam) Limited,  
Rep. By its General Manager,  
Railway Station New Road,  
Kumbakonam – 612 001.

... Petitioner

Vs

1.The Special Joint Commissioner of Labour,  
DMS Campus, Anna Salai,  
Chennai.

2.P.Marimuthu

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 05.05.2022 passed by the 1<sup>st</sup> respondent in A.P.No.81 of 2020 and quash the same, consequently direct the 1<sup>st</sup> respondent to approve the order of the petitioner dated 31.07.2020 dismissing the 2<sup>nd</sup> respondent from service.



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For Petitioners : Mr.C.Senapathi

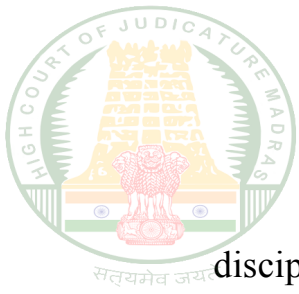
For Respondents : Mr.L.S.M. Hasan Fizal AGP for R1  
: No Appearance for R2

### **ORDER**

This Writ Petition has been filed as against the order passed by the first respondent in A.P.No.81 of 2020 dated 05.05.2022, and to quash the same.

2. **The short facts necessary to dispose of this writ petition are as follows:**

The second respondent was employed as a conductor in the petitioner-management. During his service, he remained unauthorisedly absent without any prior intimation. Consequently, the management issued a charge memo, to which the second respondent submitted an explanation. Since the explanation was found unsatisfactory, a domestic enquiry was conducted, in which the second respondent also participated. The Enquiry Officer, upon conclusion, rendered findings that the charges against the second respondent stood proved. Thereafter, the petitioner-corporation furnished a copy of the enquiry report to the second respondent and called for his explanation. However, no explanation was submitted, and the



disciplinary authority, by order dated 31.07.2020, imposed the punishment of dismissal from service. Immediately thereafter, the second respondent filed an Approval Petition before the Approval Authority in A.P. No.81 of 2020. The Approval Authority declined to grant approval for the punishment imposed by the management. The said order is now under challenge by the petitioner-management.

3. The learned counsel appearing for the petitioner would submit that the second respondent was employed as a conductor in the petitioner/management. Due to his unauthorised absence, a charge memo was issued to which, he submitted his explanation. Since the explanation was not satisfactory, the petitioner/management conducted a domestic enquiry after affording sufficient opportunity to the second respondent. The Enquiry Officer, upon conclusion, held that the charges against the second respondent were proved. Thereafter, the disciplinary authority, after following due legal procedures, imposed the punishment of dismissal from service.

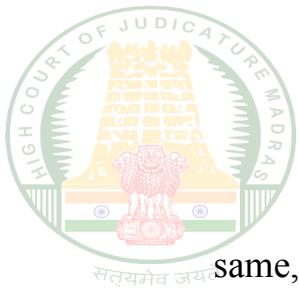
3.1. The learned counsel would further submit that the petitioner/management thereafter filed an Approval Petition before the first



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respondent along with the dismissal order and other connected records, after having paid one month's salary to the second respondent. However, the Approval Authority, without considering the gravity of the charges and the materials placed by the management, dismissed the petition. It is further contended that without properly following the principles laid down by the Hon'ble Supreme Court in *Lala Ram's case*, the Approval Authority erroneously declined to grant approval. The Labour Court wrongly concluded that principles of natural justice had not been followed and that no prima facie case was made out on the basis of acceptable evidence, and also held that there was delay in filing the Approval Petition. The learned counsel therefore submits that the order passed by the Approval Authority/first respondent is unsustainable in law and is liable to be quashed.

4. The learned counsel appearing for the respondent would submit that the respondent was employed as a conductor. During his service, he could not attend duty due to ill health and injuries, which were a consequence of diabetes. After informing the Branch Manager, he proceeded on leave. However, the management issued a charge memo. The respondent submitted a satisfactory explanation, but without accepting the



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same, the management ordered a domestic enquiry. It is submitted that in the said enquiry, the principles of natural justice were not properly followed and sufficient opportunity was not given to the respondent. Moreover, the mandatory principles laid down in *Lala Ram's case* were not complied with. It is further submitted that no prima facie case was made out on the basis of acceptable evidence, and the action of the management amounts to victimisation, as leave was declined without justification. The management also failed to examine the Branch Manager, who had been informed by the respondent about his leave.

4.1. The learned counsel would further contend that one month's salary was not paid to the respondent as required under law. There was also delay in filing the Approval Petition, since the dismissal order was passed on 31.07.2020, whereas the Approval Petition was filed only on 17.08.2020. Considering all these aspects, the Approval Authority rightly declined to grant approval. Therefore, the order passed by the first respondent is just, proper and in accordance with law, and the present writ petition deserves to be dismissed.



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on record.

5. This Court heard both sides and perused the materials available

6. In this case, there is no dispute regarding the relationship between the parties, and the respondent has admitted his absence on the particular date in question. According to the petitioner/management, such absence was unauthorised. However, the respondent contends that he was unable to attend duty on account of an injury on his leg, which was a result of diabetes, and that the same had been duly informed to the Branch Manager. To substantiate the charges against the respondent, a domestic enquiry was conducted, in which the charges were held proved. Even according to the petitioner, it stands admitted that the 2<sup>nd</sup> respondent was suffering from diabetes and had sustained injuries on his legs.

7. In such circumstances, it was the duty of the management to consider the leave said to have been applied by the second respondent before the Branch Manager. However, the Branch Manager, being a witness, was not examined. Further, the dismissal order was passed on 31.07.2020, but the Approval Petition was filed only on 17.08.2020, thereby the approval petition was filed with delay. When the management



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was fully aware of the physical condition of the respondent, it yet proceeded with disciplinary action and the same amounts to victimisation.

With respect to the payment of one month's salary, the petitioner/management claims to have paid a sum of Rs.13,299/- by cheque on 31.07.2020. According to the respondent, the said sum did not amounts to full salary and, therefore, it cannot be treated as compliance under Section 33(2)(b) of the Act. Once the respondent denied receipt of the full one month's salary, the burden is upon the management to prove such payment by producing relevant records such as salary slip and other supporting documents. The management, however, failed to discharge this burden. The Labour Court, instead, erroneously cast the burden on the second respondent to establish non-payment, which is contrary to law.

8. Thus, it is clear that the principles laid down by the Hon'ble Supreme Court in *Lala Ram's case* were not complied with. The Approval Authority, after elaborate consideration of all aspects, rightly declined to grant approval. Therefore, the impugned order passed by the first respondent/Approval Authority is just, proper, and does not warrant any interference.



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9. In view of the above said discussions, this court is of the opinion that this writ petition has no merits and deserves to be dismissed.

10. In the result, this Writ Petition is dismissed. No Costs.

09.07.2025

To

1. The Special Joint Commissioner of Labour,  
DMS Campus, Anna Salai,  
Chennai.



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**P.DHANABAL, J.,**

drl

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