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W.P.No.4667 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.06.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 4667 of 2021

and

W.M.P.No.5289 of 2021

The Management of
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Erode Division,
Chennimalai Road,
Erode – 1.

...Petitioner

VS-

V. Babu

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in I.D. No. 50 of 2014 on the file of the Labour Court, Salem dated 24.07.2019 and quash the same.

For Petitioner	: Mr. M. Murali Vinodh
For Respondents	: Mr. K.M.Ramesh Senior Counsel for, Mr. S. Ayyathurai



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ORDER

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The Management of the Tamil Nadu State Transport Corporation has filed the above Writ Petition challenging the award passed by the Labour Court, Salem in I.D.No.50 of 2014.

2. The facts which has culminated in filing of the writ petition are herein below set out. The parties are referred to in the same ranking as before the Labour Court.

3. The petitioner had joined the services of the respondent as a Technical Assistant in the year 1986 and he had been discharging his duties diligently and sincerely. On 16.11.2013, he was dismissed from the services by the respondent stating that he was absent from duty without intimation to the respondent. The said dismissal order is against the principles of natural justice. The petitioner, as on the date of dismissal, was drawing a salary of Rs.20,000/-. He would submit that the respondent, which is a transport-Corporation, has over 15 depots and operates several thousands of buses. The workforce consists of over 7000 employees and the workload imposed upon these employees is



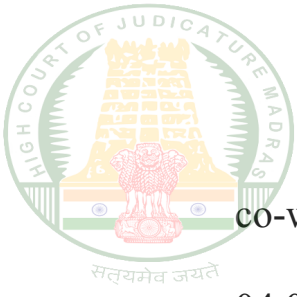
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very heavy. The petitioner would further contend that the modus operandi of the respondent-Corporation is to foist false allegation against the permanent employees, dismiss them from service and appoint contract labourers in their place.

4. The petitioner would submit that on 24.10.2012, the respondent had issued him with a charge memo by stating that he was absent from duty from 04.09.2012. The petitioner had sent a reply giving his explanation. However, the same was not considered and a domestic enquiry was initiated against the petitioner.

5. The petitioner would submit that the domestic enquiry was a farce and that the enquiry officer had conducted the same in an arbitrary manner and thereafter, by order dated 16.11.2013, the petitioner was dismissed from service. The contention of the respondent that the petitioner absented himself without reasons is totally false. The petitioner was suffering from piles and ulcer and was undergoing continuous medical treatment and he had kept the respondent-Management informed about the illness through phone calls and

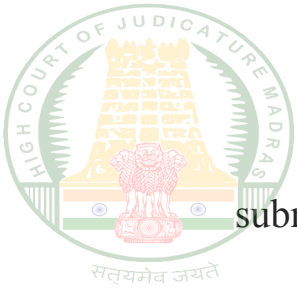


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co-workers. Therefore, the allegation that he was absent from duty from 04.09.2012 to 09.12.2012 without intimation is false. The petitioner had raised the issue before the Labour Officer at Erode. Since the respondent had not come forward for Conciliation, the Labour Officer had submitted a failure report and ultimately, the matter was referred to the Labour Court, Salem.

6. The respondent-Management had filed a counter *inter-alia* denying the contention that the domestic enquiry was not conducted in a fair manner. They would contend that not only was the enquiry conducted properly but the charges against the petitioner were also proved. The allegation of malafides which had been raised by the petitioner was also denied.

7. The respondent would submit that on 24.10.2012, they had issued a Charge Memo to the petitioner for his unauthorized absence and on 09.11.2012, he had given his reply. This reply was considered and since it was not acceptable, the respondent-Management had decided to hold a domestic enquiry. The respondent would further



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submit that the petitioner had not submitted any medical certificate to prove his illness and had also not given any details of the nature of his illness or the place of treatment.

8. On 15.12.2012, the petitioner participated in the enquiry and had given a letter dated 06.11.2012 admitting his unauthorized absence for duty from 04.09.2012. It is the contention of the respondent that the petitioner was given ample opportunity to put forth his contentions and allegations to the contrary are absolutely false. The petitioner had represented before the Enquiry Officer that he has no cross examination which was also written by him in his hand. That apart, the petitioner frequently absented himself from the enquiry and repeated warnings did not yield the desired results. The respondent would reiterate that no documents were filed to prove either the illness of the petitioner or his mother and that they were undergoing medical treatment. The respondent would also submit that there were other occasions where the petitioner had committed delinquency in his duty and had been awarded punishment. Therefore, they sought for dismissal of I.D.



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9. There was no oral evidence from the parties to the proceedings and only documentary evidence had been let in. The petitioner had marked the report showing the failure of conciliation as Ex.P1 and the respondent had marked Exs.R1 to R13. The Labour Court had framed the following points for determination:

- a) Whether the dismissal order against the petitioner dated 16.11.2013 is against law and natural justice and to be set aside?*
- b) If so, the petitioner is entitled for reinstatement along with backwages as prayed by him in the petition?*

10. Ultimately, taking note of Exs.R3 and R4, the learned Judge observed that the contention of the respondent that the petitioner had not given advance intimation about his absence was totally false. He had also drawn an adverse inference to the fact that the respondent had not produced the petitioner's attendance register. The learned Judge had



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also taken note of the discrepancies in the charge memo and the dismissal order, held the dismissal to be arbitrary and consequently, set aside the same, directing the reinstatement of the petitioner. Challenging the same, the respondent is before this Court.

11. The learned counsel for the petitioner would once again plead that the respondent's contention that the petitioner has not been given adequate opportunity to participate in the domestic enquiry is totally incorrect. It is the petitioner who has himself stated that he has no cross examination before the Enquiry Officer. Further, the absence from work is unauthorized, as no prior intimation has been given to the employer.

12. Per contra, the learned counsel on behalf of the respondent would submit that the documents filed on the side of the respondent-Management would clearly show that the statement made by them regarding the petitioner's unauthorized leave is totally contrary to the documents. That apart, the petitioner's contentions have not been properly considered. In fact, had his reply to the charge memo been taken note of, the domestic enquiry itself would not have been



conducted.

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13. Heard the learned counsels on both sides and perused the materials available on record.

14. The only ground on which the petitioner's service has been terminated is that he has been unauthorizedly absent from duty on 04.09.2012. The respondent has filed Exs.R3 and R4 which are accompanied by the medical certificates as also Ex.R12 would clearly show that the petitioner was in a poor health condition and therefore was unable to attend the work. That apart, his mother has also been in a poor state of health. Though the petitioner had clearly and categorically made the statement on receipt of the charge memo, it appears that the same has not been taken into consideration by the respondent-Management which thereafter rushed into holding a domestic enquiry. Therefore, the only ground on which the termination had taken place appears to be totally incorrect. Therefore, the finding of the Labour Court that the dismissal order is arbitrary has to necessarily be upheld and the order passed by the Labour Court is confirmed in I.D.No.50 of



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2014. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To,
The Labour Court, Salem.



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P.T.ASHA, J.,

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