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W.P.No.5734 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.5734 of 2025

and

W.M.P.No.6316 of 2025

The Management
Rep by its General Manager
Tamil Nadu State transport Corporation (Vilupuram) Ltd.,
Villupuram – 605 602 ...Petitioner

Vs.

1. The Special Joint Commissioner of Labour
D.M.S. Campus, Chennai
2. G.Deiveegan

...Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for records in A.P.No. 159 of 2022 passed by the 1st Respondent dated 13.03.2024 by the Special Joint Commissioner for Labour, Chennai, and to quash the same.

For Petitioner : Mr.M.Aswin

For Respondents : Mr. K.Surendran, AGP for R1



W.P.No.5734 of 2025

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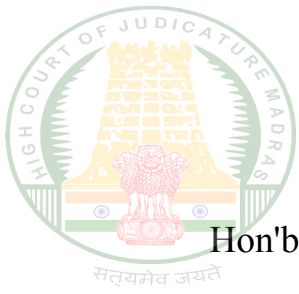
ORDER

This Writ Petition has been filed calling for records in A.P.No. 159 of 2022 passed by the 1st Respondent dated 13.03.2024 by the Special Joint Commissioner for Labour, Chennai, and to quash the same.

2. Since no adverse order is being passed, notice to the second respondent is dispensed with.

3. The case of the petitioner is that 2nd respondent, employed as a driver since 28.03.1991, was dismissed from service on 05.07.2022 following the disciplinary enquiry for causing fourth fatal accident while on duty on 27.01.2022. Subsequently, an approval petition in A.P.No.159 of 2022 was filed before the 1st respondent, however the same was rejected on 13.03.2024 on the ground that prima facie case was not made out, natural justice principle was not followed and alleged victimisation. Aggrieved by the same, present writ petition has been filed.

4. The learned counsel for the petitioner submits that though the first respondent has made reference to the guidelines issued by the



W.P.No.5734 of 2025

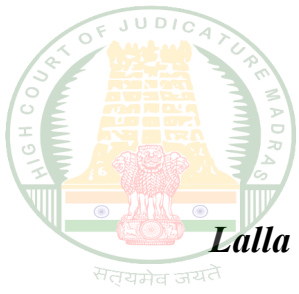
Hon'ble Supreme Court in the case of Lalla Ram Vs. DCM Chemical

WEB COPY Works reported in AIR 1978 SC 1004, however, it has failed to adhere to the said guidelines by failing to exercise the jurisdiction as per the dictum laid down by the Hon'ble Supreme Court. Therefore, the impugned order is liable to be set aside.

5. Heard the learned counsel appearing on behalf of the first respondent and perused the materials placed on record.

6. Though there is an allegation as against the respondent driver that he caused a fatal accident by dashing a pedestrian while riding the bus belonging to the petitioner / Corporation, however in order to prove the manner in which the accident had occurred, the petitioner has not examined any independent eye witness except the Depot Manager before the first respondent / Labour Court. Upon appreciation of the oral and documentary evidence, the Labour Court has rightly passed the impugned award which does not require any interference.

7. It is an undisputed fact that the approval petition has to be decided based on the law laid down by the Apex Court in the case of



W.P.No.5734 of 2025

Lalla Ram Vs. Managment of D.C.M. Chemicals Works Ltd. & Ors.

WEB COPY reported in ***AIR 1978 SC 1004***, wherein the Apex Court held as under :-

"(i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held;

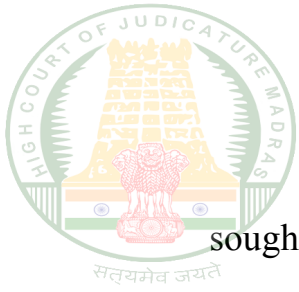
(ii) whether a prima facie case for dismissal based on legal evidence adduced before the domestic tribunal is made out;

(iii) whether the employer had come to a bona fide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice and was not intended to victimise the employee;

(iv) whether the employer has paid or offered to pay Wages for one month to the employee; and

(v) whether the employer has simultaneously or within such reasonably short time as to form part of the same transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him."

8. In the present case, all the above aspects has been elaborately considered by the Labour Court while rejecting the approval petition filed by the petitioner Corporation. It is evident from the materials available on record that, the enquiry was not conducted in accordance with law and that there is a violation of principles of natural justice. Citing the said reasons, the Labour Court has rejected the approval



W.P.No.5734 of 2025

sought for. The order passed by the Labour Court does not suffer any perversity and the rejection of the approval petition is fully justified and the same cannot be interfered with.

9. With the above observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.02.2025

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

To
The Special Joint Commissioner of Labour
D.M.S. Campus, Chennai



WEB COPY



W.P.No.5734 of 2025

M.DHANDAPANI., J.

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W.P.No.5734 of 2025

20.02.2025