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W.P.No.26291 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26291 of 2015

and

M.P.No.1 of 2015

The General Manager,
Tamil Nadu State Transport Corporation,
Kumbakonam Limited,
Kumbakonam-612 001.

... Petitioner

Vs.

1. The Special Deputy Commissioner of Labour,
D.M.S.Compound,
Chennai.

2.G.Gunasekaran

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the first respondent made in A.P.No.9 of 2011 dated 27.12.2012 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.



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For Petitioner : Ms.M.Rohini

For Respondents : Mr.K.Surendran
Additional Government Pleader
for R1
Mr.D.Krishnamoorthy for R2

ORDER

This Writ Petition has been filed challenging the order dated 27.12.2012 passed in A.P.No.9 of 2011 by the first respondent.

2. The case of the petitioner is that the second respondent was appointed as Driver in the petitioner Corporation in the year 2006. On verification of the certificates produced by the second respondent, it was found that the Transfer Certificate produced by the second respondent was a forgery one and thereby, a charge memo was issued to the second respondent, however, he did not give any reply to the same. Thereafter, domestic enquiry was conducted and sufficient opportunities were also given to the second respondent and the Enquiry Officer has drawn a proven minute, based on which the petitioner Management has passed an order of



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dismissal dated 01.03.2011 along with one month salary. Simultaneously, the petitioner Management has filed approval petition in A.P.No.9 of 2011 before the first respondent, however, the first respondent has dismissed the approval petition filed by the petitioner. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submits that as per Section 33(2)(b) of the Industrial Disputes Act, the petitioner has proved the fact before the Labour Court that the enquiry was conducted in a proper manner and opportunity was also given to the second respondent, before conducting enquiry and the principles of natural justice was complied with. Even thereafter, the first respondent has dismissed the approval petition filed by the petitioner. Hence, he prays for allowing this writ petition.

4. The learned counsel appearing for the second respondent submits that the second respondent entered into service in the petitioner Corporation in the year 1998 itself and his services were not regularised and



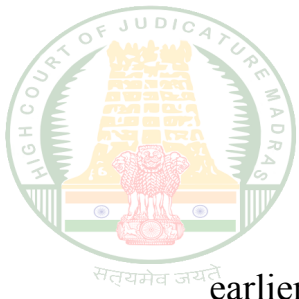
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he was terminated from service. Thereafter, he was again reinstated into service on 16.10.2006 as per G.O.No.40. While so, the petitioner Corporation alleging that the second respondent has given bogus Transfer Certificate, dismissed him from service, after a lapse of 10 years and filed the approval petition before the Labour Court. The Labour Court, after considering the materials placed before it, dismissed the approval petition filed by the petitioner, since no *prima facie* case was established by the petitioner Management.

5. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent.

6. The petitioner Corporation claims that the second respondent entered into service as Driver in the year 2006, whereas, the second respondent claims that he entered into service in the petitioner Corporation in the year 1998 itself and his services were not regularized and he was



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earlier terminated from service and thereafter, as per G.O.No.40, he was again reinstated into service on 16.10.2006. The aforesaid facts are not in dispute. The allegation against the second respondent made by the petitioner Management is that the Transfer Certificate produced by the second respondent was a forged one. However, in order to prove the allegation made against the second respondent, no witness was examined and no evidence was produced before the Enquiry Officer with regard to genuineness of the certificate produced by the second respondent and the fact as to what is the nexus of the Transfer Certificate with the appointment of the second respondent has also not been stated by the petitioner Management and no *prima facie* case was established by the petitioner Management to hold that the second respondent has produced the bogus Transfer Certificate. The Labour Court has considered these aspects and has rightly dismissed the approval petition filed by the petitioner Corporation. This Court finds no reason to interfere with the impugned award passed by the Labour Court.



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7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

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

To
The Special Deputy Commissioner of Labour,
D.M.S.Compound,
Chennai.



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M.DHANDAPANI,J.

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