



W.P.No.6895 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.6895 of 2025

and

W.M.P.No.7601 of 2025

The Management of
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan House, Pallavan Salai,
Chennai – 600 002. ... Petitioner

Vs.

1.G.Balaji
2.The Special Joint Commissioner of Labour,
DMS Compound, Teynampet,
Chennai – 600 006. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the order passed in A.P.No.183 of 2022 dated 08.09.2023 passed by the 2nd respondent herein and quash the same.

For Petitioner : Mr.T.Chandrasekaran

For Respondents : Mr.K.Surendran
Additional Government Pleader [R2]



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ORDER

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2. Since no adverse order has been passed against the 1st respondent, notice to the 1st respondent is dispensed with.

3. The case of the petitioner is that, the 1st respondent joined the petitioner Corporation as driver on 01.01.2015. At the time of interview, he submitted bogus certificate with regard to his educational qualification and the same amounts to violation of condition under clause 25(viii), 25(iv) and 25(xiii) of standing order. In order to verify the genuineness of the certificates produced by the 1st respondent, the petitioner has sent the same to concerned school and it was informed by the school management that the 1st respondent is not a student in their school and it was specifically stated that the school was only for female students and the certificate submitted by the 1st respondent is a bogus certificate, thereby, after conducting enquiry by affording opportunity to



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the 1st respondent, the petitioner Corporation passed an order of dismissal on 30.06.2022. Thereafter, the petitioner Corporation filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947, before the 2nd respondent/Labour Court. However, by the impugned order, the 2nd respondent refused to grant approval to the petitioner Corporation. Challenging the same, the present writ petition is filed before this Court.

4. Learned counsel for the petitioner Corporation submitted that, the 2nd respondent had rejected the approval petition on the ground that there was a delay of twelve days, which is not sustainable, since mere delay of 12 days in filing the approval petition will not vitiate the entire proceedings. While so, rejecting the approval petition filed by the petitioner on the ground that, the same was not filed simultaneously before the authority is not sustainable, as the word 'simultaneously' mentioned is not explained either in the Act or in the Rules. Hence, the order of the 2nd respondent is liable to be set aside and accordingly, prayed for appropriate orders.



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5. Per contra, learned Additional Government Pleader appearing for the 2nd respondent submitted that, though the 1st respondent was dismissed from service on 30.06.2022, however, the petitioner Corporation had filed the approval petition only on 12.07.2022 with a delay of 12 days, which is an incurable defect as per the decision of the Hon'ble Division Bench of this Court in the case of ***The Management, Tamil Nadu State Transport Corporation (Salem) Limited Vs. C.Iyandhurai and anr.*** (W.A. No.1555 of 2022) dated 01.08.2022. For better appreciation, the relevant portion of the said order is extracted hereunder:

“The Writ Appeal has been filed against the order passed by the learned Single Judge refusing to interfere with the order passed by the second respondent-Authority in dismissing the appellant-Management's approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947. The rejection of the approval petition was on the ground that there was shortfall in payment of one month salary to the first respondent-employee and there was eight days delay in filing the approval petition. The learned Single Judge, while adverting to Section 33(2)(b) of the Industrial Disputes Act, 1947, read with Rule 64(2) of the Industrial Disputes Rules, 1958, observed that an application seeking approval of dismissal of an employee needs to be served with the order of punishment and



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simultaneously, approval application has to be filed before the Authority, and otherwise, the approval petition cannot be entertained and hence, the learned Single Judge observed that the second respondent-authority rightly rejected the approval petition. In view of the above, the learned Single Judge, while not interfering with the order passed by the second respondent-authority in dismissing the approval petition, made it clear that the first respondent-employee would be entitled to all monetary benefits due to him and the appellant-Management was expected to extend the same and the period for compliance was also given by the learned Single Judge. Looking into the order passed by the learned Single Judge, we find no ground made out to entertain the Writ Appeal, which is accordingly dismissed. There shall be no order as to costs. Consequently, the miscellaneous petition is closed.”

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the 2nd respondent.

7. The ingredients which should be satisfied by the employer while filing the approval petition have been spelt out in the decision of the Apex Court in ***Lalla Ram Vs. D.C.M. Chemical Works Ltd. and Ors.***, reported in ***AIR 1978 SC 1004***, wherein the Supreme Court held thus :-



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"(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. From the materials available on record it is evident that the approval petition was not filed simultaneously when the order of dismissal had come to be passed. It is even the admitted case of the petitioner that there is a delay of twelve days. It is the consistent view of the courts that there should be proper explanation for the delay and in the



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absence of the same, even a single day's delay is fatal. Though in *Lalla Ram's* case, it has been held that reasonable delay, even then the reasonableness should be explained. However, in the case on hand, there is no explanation for the delay, much less any explanation, which is reasonable and in such a circumstances, the requirement of Section 33(2)(b) has not been fulfilled and, therefore, the same does not merit acceptance. Appreciating the materials in proper perspective, the Labour Court has rejected the approval petition, which cannot be said to be erroneous. Further, the decision of the Division Bench of this Court in *C.Iyandhurai* case (*supra*) is also in line with the decision of this Court.

9. For the reasons aforesaid, this Writ petition stands dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

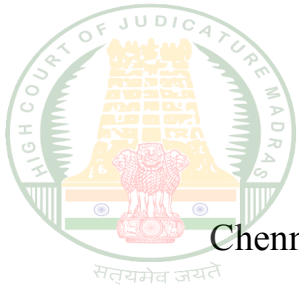
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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Special Joint Commissioner of Labour,
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M.DHANDAPANI, J.

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