



W.P. Nos.32323 of 2015 and 34808 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. Nos.32323 of 2015 and 34808 of 2015
and W.M.P. No.1 of 2015 and 17530 of 2017

W.P. No.32323 of 2015

P. Thangaraj

Junior Technician (Retired)

.. Petitioner

VS

The Management,

Tamil Nadu State Transport Corporation (Salem) Ltd.,

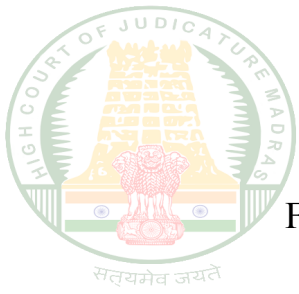
represented by its Managing Director

.. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the respondent / Management to settle the petitioner's entire terminal benefits and other monetary entitlements due to the petitioner duly implementing the order dated 30.12.2013 of the authority viz., Special Deputy Commissioner for Labour, Chennai passed in A.P. No.97/2010 with due interest for the inordinate delay in the payment of such entitlements.

For Petitioner

: Mr. N.K. Kanthimathi
for Ms. S. Girija



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For Respondents : Mr. M. Aswin,
Standing Counsel.

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W.P. No.34808 of 2015

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
represented by its Managing Director ... Petitioner

vs.

1. The Special Deputy Commissioner for Labour, Chennai
2. P. Thangaraj, Junior Technician (Retired) .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for records from the 2nd respondent in A.P. No.97 of 2010 dated 30.12.2013 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr. M. Aswin,
Standing Counsel.

For Respondents : Mr. M. Murali,
Government Advocate [for R1]

Mr. N.K. Kanthimathi [for R2]
for Ms. S. Girija

COMMON ORDER

The Writ petition in W.P. No.34808 of 2015 has been filed challenging the order passed by the 1st respondent in A.P. No.97 of 2010 dated 30.12.2013. Writ petition in W.P. No.32323 of 2015 has been filed by the petitioner seeking to settle the terminal and monetary benefits due to the



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petitioner by implementing orders passed by the 1st respondent in A.P. No.97 of 2010 dated 30.12.2013.

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2. The Writ petitioner in W.P. No.32323 of 2015 hereinafter will be referred to as 'workman'. The Writ petitioner in W.P. No.34808 of 2015 hereinafter will be referred to as 'management'.

3. The short facts necessary to dispose of these Writ petitions are as follows:-

The workman was working as Junior Technician under the Tamil Nadu State Transport Corporation (Salem). While so, he was charged for unauthorized absent since 16.09.2007. On 24.10.2007, charge memo was issued to the workman for his unauthorized absence and the workman has not filed any explanation for the charge memo and thereafter, the Management appointed an enquiry officer and the enquiry proceedings were duly conducted. The enquiry notice was sent to the residential address of the workman and the same was received by him and thereafter, he participated in the enquiry proceedings on 06.08.2008. As per the enquiry report, the charges levelled against the workman were proved. Thereafter, the Management also issued a memo calling for remarks on the enquiry report



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and the same was also received by the workman and he also issued a reply dated 06.10.2009. Thereafter, notice was issued for the punishment imposed to the individual and the same was also received by him and he also sent a reply without any valid reasons and the same was not accepted. Therefore, the Management passed an order of dismissal dated 30.07.2010 along with one month salary and thereafter, the Management sought for approval of the 1st respondent under Section 33(2)(b) of the Industrial Disputes Act with regard to the dismissal. But the 1st respondent rejected the approval petition on the ground that the charges were not proved through acceptable evidence and one month salary amount has not been paid. In the meantime, the workman was retired on superannuation. Now the Management has filed the present Writ petition aggrieved by the order passed by the 1st respondent and the Workman also has filed the Writ petition to disburse the retirement benefits.

4. The learned counsel appearing for the Management would submit that the 2nd respondent was on unauthorized absent and thereby, a charge memo was issued on the workman and thereafter, the enquiry proceedings were also initiated and the workman also participated in the enquiry proceedings. The enquiry officer filed an enquiry report holding that the



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charges were proved and after serving the copy of the enquiry report, explanation was also called from the workman and he also submitted his explanation. Having not satisfied with the explanation, the disciplinary authority has passed an order of dismissal from service. The Management have filed an approval petition before the 1st respondent, but the 1st respondent without considering the gravity of the charges and Without perusing the materials, refused to grant approval petition on the ground that there is no acceptable evidence to prove the charges and also the entire one month salary has not been paid. In fact, the last drawn salary of the workman was Rs.5,512/- and the 1st respondent has not stated about what is the deficit in the one month salary. Therefore, the order passed by the 1st respondent is against law and the same is liable to be set aside.

5. The learned counsel appearing for the workman would submit that already the Management has terminated the service of the workman and the same was challenged through an I.D. No.67 of 2003 and the same was allowed and thereafter, the workman was reinstated into service. But thereafter, he was appointed as fresh entry into service on daily wages and the same was also challenged through a Writ petition in W.P. No.33973 of 2006 and the same was also allowed and the order of the Management was set aside



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and the workman also was fighting for his job. While so, on 17.09.2007, due to his illness, he was not able to attend his duty and he was under treatment and after surgery, he also submitted his leave application along with medical certificate. Due to his health condition, he was not able to appear for the enquiry proceedings and the same was also intimated to the Management. Therefore, the proceedings were not conducted in a fair manner. However, considering the above aspects, the 1st respondent has passed a reasoned order. Therefore, the order passed by the 1st respondent is in accordance with law and the present Writ petition is liable to be dismissed.

6. Heard both sides and perused all the materials available on record.

7. Since both the Writ petitions are relating to the same order, this Court heard both the Writ petitions together and passed a common order.

8. In this case, there is no dispute that the workman was working under the Management and he was absented himself from duty for a particular period and according to the workman, he was suffering from illness and the same was also intimated to the Management. But according to the Management, the workman has not submitted any leave application and he



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was unauthorizedly absent. In the meantime, a domestic enquiry was also conducted and as per the enquiry report, the charges levelled against the workman were proved. Therefore, the Management has passed a dismissal order and thereafter, they filed an approval petition before the 1st respondent.

9. The 1st respondent in the order elaborately discussed about the conduct of enquiry proceedings and held that the enquiry was conducted after giving opportunity to the workman and the principles of natural justice were duly followed. However, there is no prima facie acceptable evidence to prove the charges levelled against the workman and also the Management has not paid the entire one month salary to the workman and the Management failed to produce the records to show the last drawn salary of the workman. Therefore, the 1st respondent refused to grant approval.

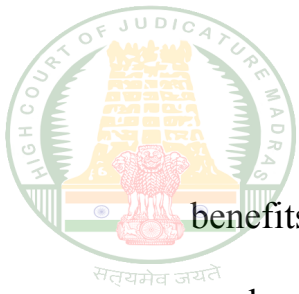
10. This Court carefully perused the entire materials. It is an admitted fact that the workman was absented in his duty for some time, but according to the workman, due to his health issues, he was unable to attend the duty and he also submitted the medial bills and the leave application, but the Management has not granted leave to him. In order to substantiate the contention of the workman that he already informed to the Management, he



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produced Ex.A.10. Before the enquiry officer, the workman also stated about his illness and the treatment taken by him from 04.03.2008 to 09.03.2008 and also he wrote a letter to the General Manager dated 19.05.2010. In that notice, he already stated that he informed to the Management about his illness. However, the Management denied the receipt of that notice. The document produced by the workman shows that he already informed about his illness to the Management. The above said aspects has not been considered by the enquiry officer. Moreover, the Management has sent a cheque to the workman for a sum of Rs.5,512/- and not furnished any document to show the last drawn salary of the workman. Therefore, the 1st respondent refused to grant approval. The above said order passed by the 1st respondent is a reasoned order and there is no infirmity or illegality found in the order passed by the 1st respondent. Therefore, the order passed by the 1st respondent does not warrant interference. Therefore, the order passed by the 1st respondent is liable to be confirmed.

11. These Writ petitions were filed in the year 2015. In the meantime, the workman was also superannuated and therefore, it is not appropriate to set aside the order passed by the 1st respondent. As far as the Writ petition filed by the workman is concerned, the workman is entitled to the retirement



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benefits and the Management is liable to pay retirement benefits to the workman.

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12. In view of the above said discussions, this Court is of the opinion that the Writ petition filed by the Management is liable to be dismissed and the Writ petition filed by the workman is liable to be allowed.

13. Accordingly, the Writ petition filed by the Management in W.P. No.34808 of 2015 is dismissed and the Writ petition filed by the Workman in W.P. No.32323 of 2015 is allowed. The respondent management is directed to settle the entire terminal benefits and other monetary benefits due to the workman within **1 (one) month from the date of receipt of a copy of this order.** No costs. Consequently, the connected miscellaneous petitions are closed.

21.01.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

P. DHANABAL, J.,

mjs

To

1. The Special Deputy Commissioner for Labour, Chennai
2. The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,



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represented by its Managing Director.

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