

W.P.No.7052 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

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RESERVED ON : 19.03.2025
PRONOUNCED ON : 23.04.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

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A.Senthamaraikannan
S/o. M.Angamuthu,
7A, Sindhamani Street,
Jothi Nagar, Attur
Salem District.

.... Petitioner

Vs.

The Management
Tamil Nadu State Transport Corporation (Salem) Ltd,
12, Ramkrishna Road,
Salem – 636 007.

.... Respondent

Prayer in W.P.

To issue a writ or an order or direction in the nature of writ, particularly a writ of certiorarified mandamus calling for records pertaining to the Award made in I.D.No.105 of 2015 dated 30.10.2019 passed by the Presiding Officer, Labour Court, Salem and quash the same and further directing the Respondent to reinstate the petitioner in service with continuity of service and along with back wages and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of this case.

Appearance of Parties:

For Petitioner: M/s.G.Pugazhenth, A.Nagarathinam and M.Saravanan,



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Advocates.

For Respondent: Mr. M. Ashwin.

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JUDGMENT

Heard.

2. The Petitioner, a workman, is aggrieved by the Award dated 30.10.2019 passed by the Labour Court, Salem in I.D. No. 105 of 2015, whereby the Labour Court declined to grant any relief to him. Challenging the said Award, the present writ petition has been filed. The writ petition was admitted on 19.03.2020.

3. The case of the Petitioner is that he was appointed as a Conductor in the Respondent Corporation on 10.03.1993. He was dismissed from service by order dated 27.03.2015 on the charge of unauthorized absence. According to the Petitioner, his absence was due to illness caused by jaundice, which rendered him unfit to report for duty. However, this explanation was not accepted by the Respondent Corporation, and pursuant to a domestic enquiry, he was dismissed from service. Aggrieved by the dismissal, the Petitioner raised an industrial dispute before the Government Labour Officer, Salem. As no settlement could be arrived at through conciliation, the said officer issued a



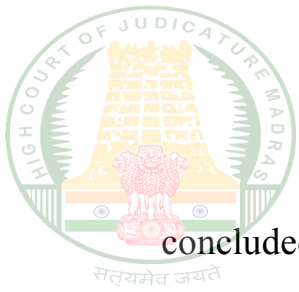
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failure report dated 11.08.2015 (marked as Ex.P4).

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4. Pursuant to the failure report, the Petitioner filed his claim statement dated 05.10.2015. The dispute was taken on file as I.D. No. 105 of 2015 and notice was ordered to the Respondent. The Respondent entered appearance and filed a counter statement, which is undated. The Labour Court, as a preliminary issue, examined the validity of the domestic enquiry and, by its order dated 24.07.2018, held that the enquiry was conducted in a fair and proper manner. The said finding has not been challenged and has attained finality.

5. Thereafter, on behalf of the Petitioner, four documents were filed and marked as Exhibits P1 to P4. On the side of the Respondent, ten documents were filed and marked as Exhibits R1 to R10. No oral evidence was adduced by either party. The Labour Court, upon examining the records, noted that in Exhibit P1, which is the Petitioner's explanation dated 03.07.2014, the reason assigned for his absence was entirely different. The Court extracted a portion of the said explanation wherein the Petitioner had stated that, with effect from 16.02.2014, his horoscope predicted the likelihood of an accident, and that he would resume duty only after the *gurupeyarchi*. On this basis, the Labour Court



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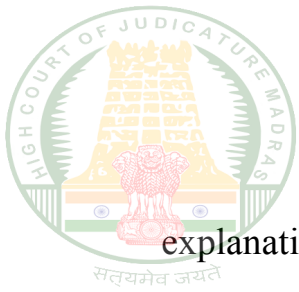
concluded that the Petitioner's absence was wholly unauthorized and held that

he was not entitled to any relief.

6. Before the Labour Court, the learned counsel for the workman placed reliance on the judgment of the Hon'ble Supreme Court in **Krushnakant B. Parmar v. Union of India**, reported in (2012) 3 SCC 178, and sought to rely upon the following passage therefrom:

“22. In the present case, the disciplinary authority failed to prove that the absence from duty was wilful, no such finding has been given by the Inquiry Officer or the Appellate Authority. Though the appellant had taken a specific defence that he was prevented from attending duty by Shri P. Venkateswarlu, DCIO, Palanpur who prevented him to sign the attendance register and also brought on record 11 defence exhibits in support of his defence that he was prevented to sign the attendance register, this includes his letter dated 3rd October, 1995 addressed to Shri K.P. Jain, JD, SIB, Ahmedabad, receipts from STD/PCO office of Telephone calls dated 29th September, 1995, etc. but such defence and evidence were ignored and on the basis of irrelevant fact and surmises the Inquiry Officer held the appellant guilty.”

7. However, the Labour Court held that the Respondent Corporation, being a public utility service, could not be expected to condone such unauthorized absence, especially when the Petitioner was not found to be medically unfit, but had instead relied upon astrological predictions based on his horoscope—an



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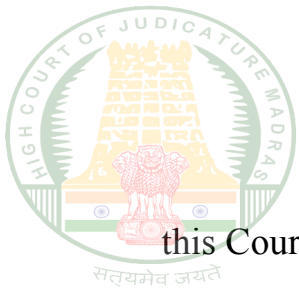
explanation the Court found wholly unacceptable. Furthermore, the Labour

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Court noted that even in the very judgment relied upon by the Petitioner, the Hon'ble Supreme Court had, in paragraph 4, recorded the factual background, which reads as follows:

“4. During the pendency of the departmental proceedings, the appellant was transferred to another place which he challenged before the Central Administrative Tribunal alleging bias against his superior Officer. The Central Administrative Tribunal by order dated 15th November, 2000 set aside the order by holding 'the order of transfer is vitiated due to malice in law and fact' which was affirmed by the Gujarat High Court on 17th August, 2001. After about seven years Inquiry Officer submitted a report on 28th April, 2003 and held that the charge has been proved against the appellant beyond all reasonable doubt, holding him guilty of violating Rule 3(1)(ii) and 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.”

8. Before the Labour Court, the learned counsel for the Respondent placed reliance on the decision of this Court in **Management, Tamil Nadu State Transport Corporation, Salem Division-II Ltd., Bharathipuram, Dharmapuri v. Ramalingam & Anr.**, rendered in W.P. No. 32839 of 2003 dated 12.12.2017 (erroneously referred to as 12.12.2007), wherein it was held that unauthorized absence by an employee was not acceptable to the employer, and the Labour Court's endorsement of the employer's action was upheld by



this Court.



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9. The Hon'ble Supreme Court, in its decision in **Life Insurance Corporation of India v. R. Dhandapani**, reported in (2006) 13 SCC 613, has categorically held that in cases of unauthorized absence, the Labour Court ought not to invoke its powers under Section 11A of the Industrial Disputes Act to interfere with the punishment imposed by the employer. In view of the settled position of law, the writ petition stands dismissed. However, there shall be no order as to costs.

23.04.2025

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

To

1.The Management
Tamil Nadu State Transport Corporation (Salem) Ltd,
12, Ramkrishna Road,
Salem – 636 007.

2.The Presiding Officer,
Labour Court,
Salem

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DR. A.D. MARIA CLETE, J

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