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WP No. 8281 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-03-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 8281 of 2025

AND

WMP NO. 9282 OF 2025

1. The Management,
Tamil Nadu State Transport Corporation (Coimbatore) Limited,
37, Mettupalayam Salai,
Coimbatore – 43.

Petitioner

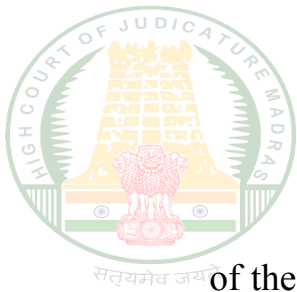
Vs

1.The Special Joint Commissioner of Labour,
Authority Under Industrial Disputes Act,
DMS Compound,
Teynampet,
Chennai – 600 006.

2.P Karupasamy

Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India
for issuance of a Writ of Certiorarified Mandamus, calling for the records



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of the 1st respondent pertaining to his proceedings in A.P No.234 of 2022 and quash the order dated 29.04.2024 and consequently, allow the approval petition filed by the petitioner management in A.P No.234 of 2022.

For Petitioner: A Vinothraj

For Respondents: Mr. K.Surendran, AGP For R1
Notice dispensed with for R2

ORDER

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent pertaining to his proceedings in A.P No.234 of 2022 and quash the order dated 29.04.2024 and consequently, to allow the approval petition filed by the petitioner management in A.P.No.234 of 2022.

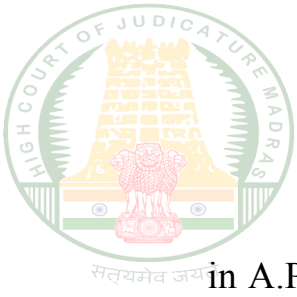
2. Since no adverse order has been passed against the 2nd respondent, notice to the 2nd respondent is dispensed with.



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3. Mr.K.Surendran, learned Additional Government Pleader, accepts notice on behalf of the 1st respondent. In view of the consent expressed by the learned counsel for the parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. The case of the petitioner is that, the 2nd respondent was working as a Conductor attached to Sungam-II Branch having Employee No.C26593. While he was on duty, he had been in unauthorized absence from 11.08.2022 continuously for more than 10 days, without any intimation and prior permission, thereby, he was issued with charge memo dated 24.08.2022 and domestic enquiry was conducted and the 2nd respondent had participated in the enquiry and admitted the charges. Accordingly, the said decision was communicated to the 2nd respondent by way of show cause notice dated 21.09.2022 and therefore, a final order dated 28.11.2022 came to be passed ordering that the 2nd respondent shall be removed from service. Subsequently, the petitioner filed an application



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in A.P.No.234 of 2022 u/s 33(c)(b) of the Industrial Disputes Act, 1947

(in short 'the I.D. Act') for approval of the removal before the 1st respondent, which was ultimately rejected vide impugned order dated 29.04.2024. Challenging the same, the present writ petition is filed.

5. Learned counsel appearing for the petitioner submitted that, when the 2nd respondent/workman himself admitted his guilt before the Enquiry Officer, there is no need for providing further opportunity to the respondent. However, the Labour Court arrived at a conclusion that the enquiry was not conducted in a proper manner and rejected the Approval Petition filed by the petitioner, which is not sustainable. Accordingly, he prays for allowing this writ petition.

6. On the above contention, heard the learned Additional Government Pleader appearing for the 1st respondent and also perused the materials available on record.



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7. The facts in the present case is not in dispute. Admittedly, the 2nd respondent/workman was employed as a conductor in the petitioner Corporation and he unauthorizedly absented himself from duty without obtaining permission from the petitioner, thereby charge memo was issued on 24.08.2022 and after conducting enquiry, he was dismissed from service on 28.11.2022. After the dismissal, the petitioner Corporation filed an approval petition before the first respondent in A.P.No.234 of 2022 and the first respondent rejected the same on the ground that the enquiry was not conducted in a fair and proper manner.

8. This Court perused the impugned order, from which, it is seen that the petitioner Corporation issued the charge memo on 24.08.2022 and within a period of 6 days, enquiry proceedings was conducted and on the same day, enquiry was concluded, which itself shows that the petitioner hurriedly concluded the enquiry in order to victimise the



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respondent. Hence, the order of dismissal is contrary to the decision rendered by the Apex Court in the case of ***Lalla Ram Vs. Managment of D.C.M. Chemicals Works Ltd. & Ors.*** reported in ***AIR 1978 SC 1004***.

9. Further, once the workman had put in considerable years of service, dismissing him only on the ground of unauthorized absence is disproportionate. Further, the absence from duty without any application or prior permission may amount to unauthorized absence, but it does not mean willful. There may be different eventualities due to which an employee may abstain from duty, including compelling circumstances beyond his control like illness, accident, hospitalization etc, but in such case the employee cannot be held guilty of failure of devotion to duty or behaviour unbecoming of a Government servant.

10. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent and this writ petition is devoid of merits



and is liable to be dismissed. Accordingly, this writ petition is dismissed.

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No costs. Consequently, the connected miscellaneous petition is closed.

12-03-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

SP

To

The Special Joint Commissioner of Labour,
Authority Under Industrial Disputes Act,
DMS Compound,
Teynampet,
Chennai – 600 006.



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M.DHANDAPANI J.

SP

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