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W.P.No.8842 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2025

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**W.P.No. 8842 of 2021**

**&**

**W.M.P.Nos. 9382 & 9383 of 2021**

1.The State Head Officer(SHO)

GVK-EMRI, 108 Ambulance Service,  
DMS Campus, Teynampet, Chennai 18

2.Project Director, TNHSP,

108 Ambulance Service,  
DMS Campus, Teynampet, Chennai 18

3.The Emergency Management Executive (EME),

108 Ambulance Service,  
DMS Campus, Teynampet, Chennai 18

...Petitioner

Vs.

K.Sridhar

...Respondent



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**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the II Additional Labour Court, Chennai in I.D.No.94 of 2018 and quash its award dated 01.02.2021.

For Petitioners : Mr. M.R.Gokul Krishnan

For Respondent : Mr. Ch. Mohith Sai  
For Mr. K.Kathiresan

### **ORDER**

The respondents in ID.No.94 of 2018 on the file of the II Additional Labour Court, Chennai are the petitioners before this Court challenging the award passed in the above ID. The facts are briefly set out herein below and the parties are referred to in the same ranking as before the Labour Court.

2. The 1<sup>st</sup> respondent is the Executor of the 108 Ambulance

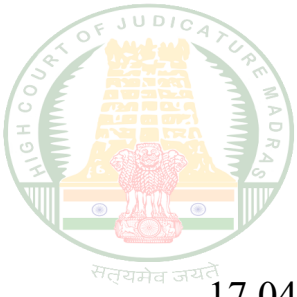


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service, the 2<sup>nd</sup> respondent gives finance for running the Ambulance services and the 3<sup>rd</sup> respondent is the Supervisor of the above Ambulance service.

3. The petitioner who is a B.Sc., Physics graduate was appointed as an Emergency Medical Technician (EMT) in the 1<sup>st</sup> respondent and after completing training on 23.04.2013 his probation period was over and he was regularised in service. He was paid a monthly salary of Rs.13,327/- with other monetary benefits.

4. The petitioner would submit that he has rendered unblemished service for over 4 years and he was also the District Treasurer in 108 Ambulance Union. The petitioner was agitating the cause of the workmen in the union with the management and therefore angered by the above the petitioner and other co workers were served with a letter dated 09.04.2015 alleging that the petitioner was under the influence of Alcohol after working hours.



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5. The petitioner would submit that he was in the service till 17.04.2015 and on 18.04.2015 the HR of the 1<sup>st</sup> respondent one Ammu had compelled him to put signature and thumb impression in a blank paper and directed the petitioner to resign. From 18.04.2015 the respondents had unlawfully refused to give employment to the petitioner.

6. The management had issued a charge memo on 27.10.2015. They would state that letters were sent to the petitioner on 25.06.2015, 09.07.2015 and 24.07.2015 for an unauthorised absence. Thereafter, on 05.02.2016 a letter was sent calling upon the petitioner to rejoin the duty. On 18.04.2016 another charge memo was issued stating that the petitioner had admitted an old lady to a private hospital.

7. The petitioner would submit that this was on the request of that lady and her attender. The petitioner would submit that he had demanded the documents relating to the charge but the management refused to give the same. Thereafter, the management initiated a



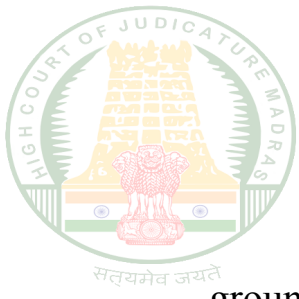
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domestic enquiry by appointing one Mr.Christopher Dhanarajan as an Enquiry Officer for conducting an enquiry on 13.05.2016.

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8. The petitioner would submit that the enquiry was not conducted in an impartial manner and the principles of natural justice were flouted. Further, the petitioner was not given sufficient opportunity and the enquiry came to be closed on 31.05.2016. The enquiry itself had been completed within two days and the Enquiry Officer concluded that the charges against the petitioner stood proved. The explanation to the second show cause notice was not at all considered and a dismissal order dated 03.03.2017 came to be passed.

9. The Union thereafter took upon the dispute in ID.No.26 of 2016 under Section 2 K of the Industrial Dispute Act and the same is pending. Without getting an approval from the Court to dismiss the petitioner while proceedings were pending the dismissal order has been effected. Therefore, the dismissal is bad in law.



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10. The petitioner would question the enquiry on the following grounds:

*(a) There was no written complaint from the patient to the management*

*(b) He has not undergone any medical examination for the allegations of intoxication.*

*(c) He was not given copies of the document nor given an opportunity for putting forth his case before the Enquiry Officer.*

11. The petitioner therefore raised a dispute before the Labour Officer 3 and the conciliation ended in a failure on 02.02.2018. On the failure of the conciliation proceedings the matter was referred in ID.No.94 of 2018 before the II Additional Labour Court, Chennai. He would pray for his reinstatement with continuity of service with all back wages and monetary benefits.

12. The 1<sup>st</sup> respondent had filed a counter denying the allegations.



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The 1<sup>st</sup> respondent would contend that the emergency response centre was started in Tamil Nadu in the DMS complex, Teynampet. The emergency in organising the ambulance with the phone call 108 had been established through the Government of Tamil Nadu and the respondent management was functioning with specific rules and regulations. The Ambulance was fitted with all the necessary medical equipment required for an emergency medical situation and the Emergency Medical Technician would attend to the patient till the patient is taken to the hospital.

13. The respondent management set up a communication office in order to coordinate communication between the management and public so as to function properly. It is the case of the respondent that the petitioner was working as an EMT in Chennai District. The case of the respondent is that on 27.10.2015 and 18.04.2016 a complaint had been made against the petitioner for which a charge sheet dated 27.10.2015 was filed. Yet another charge sheet was issued as the petitioner was found in a drunken stupor during the office hours.



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14. The contention of the petitioner is that he had taken the patient to the private hospital only at the request made by the patient as well as her attenders. However, permission from higher officer was not obtained by the petitioner. Therefore, yet another charge sheet on 27.10.2015 was issued for the above offence as well as for unauthorised absence.

15. The contention of the respondent is that the petitioner did not attend the domestic enquiry though he was given sufficient opportunity and despite his letter to the Human Resources Department that he would participate in the domestic enquiry.

16. It is also the case of the respondent that the petitioner was given sufficient opportunity to cross examine the management witnesses. The petitioner appeared for some hearings and he did not cross examine the management witness, neither did he examine himself nor any other witnesses on his side. Therefore, the Enquiry Officer had



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recorded a finding that the charges stood proved and based on the report the management dismissed the petitioner by order dated 03.03.2017. The management had issued one month salary to the petitioner and it was also received by him. Therefore, they pray that the ID be dismissed.

17. The 3<sup>rd</sup> respondent had also filed a counter which is more or less on the same lines as that of the 1<sup>st</sup> respondent.

18. Ultimately, the Labour Court had come to the conclusion that the termination was vitiated since the respondents had violated the provisions of Section 33 (2) (b) of the ID Act. The termination was bad since the management had not filed an approval petition.

19. Challenging the same the respondents are before this Court.



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20. Heard the learned counsels on the either side and perused the records.

21. A perusal of the documents filed particularly the domestic enquiry report would clearly indicate that the principles of natural justice have been flouted. By proceedings dated 13.05.2016 after the examination of management witness the matter was adjourned to 30.05.2016 for the cross examination of MW3 by the petitioner workman. The matter was adjourned to 30.05.2016 at the request of the petitioner seeking certain documents and therefore he sought time for cross examination. The notes of proceedings dated 30.05.2016 would indicate that all the documents sought for by the petitioner had not been provided to him.

22. That apart since he had sought to cross examine MW2 and



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MW3 before MW1 the Enquiry Officer has observed that the petitioner was only attempting to delay the proceedings. Ultimately, he held that the charges were proved. A mere reading of the findings would clearly indicate the biased manner in which the domestic enquiry had taken place.

23. It is also seen from the order of the Labour Court that already dispute is pending in ID.No.26 of 2016. Therefore, as per the provisions of Section 33 (2) (b) of the ID Act no workman can be dismissed unless he is paid a month's salary and an application has to be made by the employer seeking approval. Further, the filing of the approval petition should be simultaneously done. In the instant case such an approval petition has not been filed by the respondents. Therefore, the respondents have clearly violated the mandatory provisions and the Labour Court has rightly passed an award. I see no reason to interfere the same.

24. The Writ Petition is dismissed. Consequently, the connected



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miscellaneous petition closed. No costs.

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To

The II Additional Labour Court,  
Chennai.

**P.T. ASHA, J,**

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