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W.P. No.10277 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.10277 of 2022
and W.M.P. No.9987 of 2022

The Management,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
27, Railway Station New Road,
Kumbakonam - 612 001. .. Petitioner
vs.

1. T. Rajasekaran S/o. Thangavel

2. The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai-6. .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 07.01.2022 passed by the 2nd respondent in Approval Petition No.143 of 2019 and quash the same, consequently, direct the 2nd respondent to approve the order of the petitioner dated 27.11.2019 dismissing the 1st respondent from service.

For Petitioner : Mr.C. Senapathi

For Respondent : Mr. V. Ajoy Khose [for R1]



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Mr. E.P. Senniyangiri [for R2]

ORDER

This Writ petition has been filed by the petitioner Management to quash the order passed by the 2nd respondent in Approval Petition No.143 of 2019 dated 07.01.2022.

2. **The short facts necessary to dispose the Writ petition are as follows:-**

The respondent was working as a Conductor in the petitioner Management. While so, on 12.08.2019, when the 1st respondent was on duty as Conductor in the bus bearing Registration No.TN68 N 0534, the Checking Inspector inspected the bus and found that the 1st respondent issued old tickets to two women passengers and also the 1st respondent thrown a sum of Rs.100/- from his pocket through window of the bus and also he possessed three bundles of old tickets of Rs.5/-, Rs.7/- and Rs.9/- and also he was having excess amount of Rs.795/- in his money bag. Therefore, the 1st respondent was issued a Charge Memo, for which, he submitted his reply. Being not satisfied with the reply of the 1st respondent, an Enquiry Officer was appointed by the petitioner Management and a domestic enquiry was conducted and the Enquiry Officer submitted his report that the charges



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against the 1st respondent were proved. Thereafter, a 2nd Show Cause Notice dated 14.10.2019 was issued after furnishing copy of the enquiry report to the 1st respondent, but the same was not replied by the 1st respondent. Thereafter, an order of dismissal was passed on 27.11.2019 against the 1st respondent. Further, the petitioner Management filed a petition under Section 33(2)(b) of the Industrial Disputes Act before the 2nd respondent for getting approval of the dismissal order passed in A.P. No.143 of 2019 and the same was dismissed. Aggrieved by the said order, the present Writ petition has been filed by the Management.

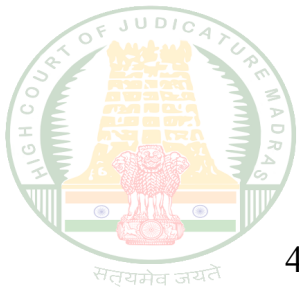
3. The learned counsel appearing for the petitioner Management would submit that the 1st respondent being the Conductor of the bus bearing Registration No.TN68 N 0534, on 12.08.2019, issued old tickets to two woman passengers, thrown a sum of Rs.100/- from his pocket through window of the bus and also had possessed excess amount in his money bag to the tune of Rs.795/- and also had possessed old tickets of Rs.5/-, Rs.7/- and Rs.9/-. The above acts are against the Standing Orders 24, 39A, 14 and 40 of the petitioner Corporation. Therefore, a Charge Memo was issued to the 1st respondent and being not satisfied with the reply given by the 1st respondent,



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the petitioner Management decided to conduct an enquiry by appointing an Enquiry Officer and a domestic enquiry was conducted by following the principles of natural justice and the Enquiry Officer rendered the findings that charges against the delinquent were proved. Thereafter, the Disciplinary Authority, after accepting the enquiry report, issued a Show Cause Notice and thereafter, passed an order of dismissal dated 27.11.2019 against the 1st respondent. The order was served to the 1st respondent along with one month salary of Rs.22,993/-. Thereafter, the petitioner Management filed a petition under Section 33(2)(b) of the Industrial Disputes Act before the 2nd respondent. The 2nd respondent, without following the guidelines issued by the Hon'ble Supreme Court in **Lalla Ram vs. DCM Chemical Works reported in AIR 1978(C) 1004**, erroneously held that the principles of natural justices were not followed in the Disciplinary Proceedings and no prima facie case has been established through the acceptable evidence. Whereas the 1st respondent was given opportunity in the Disciplinary proceedings and only after affording opportunity to the 1st respondent, the domestic enquiry was conducted. Whereas the 2nd respondent erroneously dismissed the petition and the same is liable to be quashed.



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4. The learned counsel appearing for the 1st respondent would submit that the 1st respondent was issued a Charge Memo with false allegations and the same was stoutly denied by the 1st respondent and no sufficient opportunity was given during the disciplinary enquiry and there is no prima facie case established through acceptable evidence, thereby, the 2nd respondent has correctly declined to grant permission and the petitioner failed to produce the enquiry report before the 2nd respondent, despite sufficient opportunity given to them. Therefore, the 2nd respondent has rightly dismissed the approval petition filed by the petitioner management and the present Writ petition is liable to be dismissed.

5. This Court heard both sides and perused the entire materials available on record.

6. It is an admitted fact that the petitioner Management initiated disciplinary proceedings against the 1st respondent and the Enquiry Officer was appointed and conducted a domestic enquiry and rendered findings that the charges against the 1st respondent were proved. In the disciplinary proceedings, the 1st respondent denied the charges levelled against him.



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According to the 1st respondent, false complaint has been lodged against him., in order to take revenge, they created the documents and he had excess amount for the purchase of medicines to his wife and no sufficient opportunity was given to him to cross examine the witnesses. The Approval authority in the order framed five points that *(i) whether a proper domestic enquiry in accordance with the relevant rules / standing orders and principle of natural justice has been held?; (ii) whether a prima facie case has been established in the domestic enquiry based on the legally acceptable evidence?; (iii) whether the employer had come to a bonafide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice?; (iv) whether the employer has paid or offered to pay wages for one month to the employee?; and (v) whether the employer has simulatneously 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?.* and rendered findings that no sufficient opportunity was given to the 1st respondent to adduce evidence on his side and no records were produced by the Management to show that sufficient opportunity was given to the 1st respondent. Moreover, the enquiry report has not been furnished by the 2nd respondent Authority to ascertain



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whether principles of natural justice have been followed in the disciplinary proceedings and whether there is prima facie case based on the acceptable evidence. No enquiry report has been submitted, despite sufficient opportunities were given to the petitioner Management.

7. As per the judgment of *Lalla Ram vs. DCM Chemical Works reported in AIR 1978 (C) 1004*, while dealing with the approval petitions, the Tribunal has to see whether principles of natural justice have been followed in the disciplinary proceedings, whether any prima facie case is made out based on the acceptable evidence, whether the dismissal of service is on victimization, whether one month salary was paid to the workman and also whether the approval petition was filed simultaneously along with the dismissal order. In order to ascertain whether prima facie case is made out based on the acceptable evidence, the Authority has to verify the enquiry report and the proceedings. But, in this case, the petitioner has not produced the enquiry report of the Enquiry Officer and already ample chances were given to the petitioner to produce the enquiry report. But no enquiry report has been furnished before the 2nd respondent Authority. Therefore, the Approval Authority has correctly come to a conclusion that without enquiry



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report, he was unable to ascertain whether any prima facie case is made out based on the acceptable evidence and no opportunity was given to the 1st respondent to adduce evidence on his side. The above reasons stated by the Approval Authority in rejecting the approval petition are genuine and acceptable. Therefore, the order passed by the 2nd respondent is in order and it does not warrant interference.

8. In view of the above discussions, this Court is of the opinion that the present Writ petition has no merits and deserves to be dismissed.

9. Accordingly, the Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

18.06.2025
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Index : Yes/No
Speaking order/non-speaking order
mjs

P. DHANABAL, J.,

mjs

To



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The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai-6.

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