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W.P. No.10278 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.10278 of 2022
and W.M.P. No.9989 of 2022

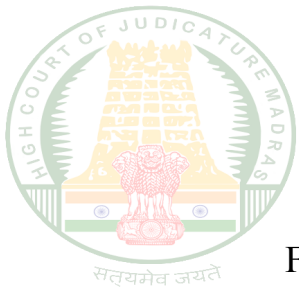
The Management,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Nagapattinam Region,
140, Public Office Road,
Vellipalayam, Nagapattinam - 611 101. .. Petitioner
vs.

1. J. Stalin

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.127 of 2019 and quash the same, consequently, direct the 2nd respondent to approve the order of the petitioner dated 30.09.2019 dismissing the 1st respondent from service.

For Petitioner : Mr.C. Senapathi



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For Respondent : Mr. R. Singaravelan, Senior Counsel
for M/s. V. Ambika [for R1]

Mr. E.P. Senniayangiri [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.127 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, he was absented from duty for 273 days without any leave letter. Therefore, the 1st respondent was issued a Charge Memo, for which, he did not submit his reply. Therefore the petitioner Management decided to conduct enquiry, 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 against the 1st respondent were proved. Thereafter, a 2nd Show Cause Notice dated 20.06.2019 was issued after furnishing copy of the enquiry report to the 1st respondent and the same was replied by the 1st respondent. Thereafter, an



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order of dismissal was passed on 30.09.2019 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.127 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 was working as a Conductor in the petitioner Management and he was unauthorizedly absented for 273 days without any leave letter. The above said misconduct is against the Standing Orders 24A, 6A and 40 of the petitioner Corporation. Therefore, a Charge Memo was issued to the 1st respondent and the 1st respondent did not submit any reply. 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 and thereafter, the Disciplinary Authority, after accepting the enquiry report, issued a Show Cause Notice and thereafter, passed an order of dismissal dated 30.09.2019



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against the 1st respondent. The copy of the order was served to the 1st respondent along with cheque bearing No.247717 dated 30.09.2019 for a sum of Rs.13,299/- as one month salary. 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.

4. The learned counsel appearing for the 1st respondent would submit that the 1st respondent was issued a Charge Memo 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

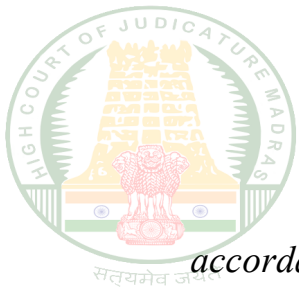


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to produce the enquiry report before the 2nd respondent, despite sufficient opportunity given to them. Therefore, the 2nd respondent has rightly dismissed the approval petition filed by the petitioner management and the present Writ petition is liable 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. According to the 1st respondent, false complaint has been lodged against him, as he was suffering from health issues and he was hospitalized, he was not able to inform the same to the Management in right time and his wife was also in the hospital along with him to take care 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*



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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

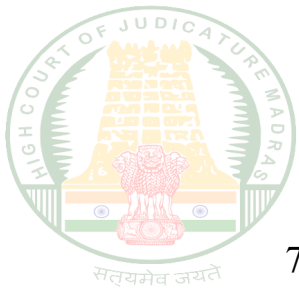
furnished by the 2nd respondent Authority to ascertain whether principles of

natural justice has been followed in the disciplinary proceedings and whether

there is prima facie case based o the acceptable evidence. No enquiry report

has been submitted, despite sufficiet opportunities were given to the petitioner

Management.



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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 has 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 had correctly come to a conclusion that without enquiry 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



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it does not warrant interference.

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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.

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

To

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

P. DHANABAL, J.,



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