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W.P. No.10420 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.10420 of 2022
and W.M.P. No.10132 of 2022

1. The Management of
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Head Office at Salem,
12, Ramakrishna Salai,
Salem - 636 007.

.. Petitioner

vs.

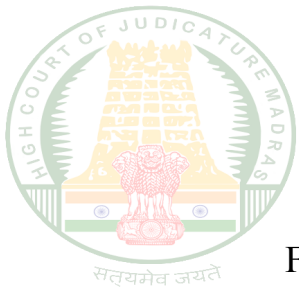
1. S. Muthukrishnan S/o. M. Subramani

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

.. 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 26.02.2021 passed by the 2nd respondent in Approval Petition in 349 of 2012 and quash the same and consequently, direct the 2nd respondent to approve the order of the petitioner dated 30.11.2012 dismissing the 1st respondent from service.

For Petitioner : Mr. K. Raja



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For Respondents : Ms. Ramapriya Gopalakrishnan
[for R1]
Mr. E.P. Senniyanigiri,
Government Advocate [for R2]

ORDER

This Writ petition has been filed as against the order passed by the 2nd respondent in Approval Petition No.349 of 2012 dated 26.02.2021 and consequently, direct the 2nd respondent to approve the order of the petitioner dated 30.11.2012 dismissing the 1st respondent from service.

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

The 1st respondent was working as a 'Conductor' in the Petitioner Corporation and he absented from duty for 8 days without any leave letter. Therefore, for the above said misconduct, the petitioner issued a Charge Memo against the 1st respondent, for which, no reply was submitted by the 1st respondent. Thereafter, the petitioner Corporation appointed an Enquiry Officer and a domestic enquiry was conducted and the Enquiry Officer rendered findings that the charges against the delinquent were proved. Thereafter, a further representation was called for from the 1st respondent after furnishing the copy of the enquiry report to him, but no reply was



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received from him. Thereafter, the 1st respondent was dismissed from service by the Petitioner Corporation, thereby, they filed a petition before the 2nd respondent to get approval of the dismissal order. The 2nd respondent dismissed the approval petition. As against which, the present Writ petition has been filed by the petitioner Corporation.

3. The learned counsel appearing for the petitioner Management would submit that the 1st respondent was working as a 'Conductor' in the Petitioner Corporation and he was unauthorizedly absent for 8 days from 21.04.2012, thereby, a Show Cause Notice was issued and no explanation was submitted by the 1st respondent. Thereafter, a domestic enquiry was conducted and the Enquiry Officer rendered his findings that the charges against the 1st respondent were proved and thereafter, the Disciplinary Authority accepted the Enquiry report and issued a Show Cause Notice to the 1st respondent and no reply was received from him and thereafter, the Disciplinary Authority passed an order by dismissing the 1st respondent from service on 30.11.2012. Thereafter, the 1st respondent was served the copy of the order along with one month salary. Further, the Petitioner Management filed a petition under Section 33(2)(b) of the Industrial Disputes Act for getting approval of the

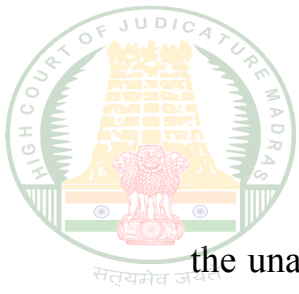


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dismissal order in A.P. No.349 of 2012. The 2nd respondent erroneously dismissed the approval petition. The Approval Authority, while exercising jurisdiction under Section 33(2)(b) of the Industrial Disputes Act, has to see whether a prima facie case has been made out as regard the validity or otherwise of the domestic enquiry held against the delinquent employee. The Approval Authority erroneously held that the principles of natural justice have not been followed in the disciplinary proceedings and prima facie case has not been established. Sufficient opportunity was given to the 1st respondent to participate in the disciplinary proceedings and he also effectively participated, but without considering the same, the 2nd respondent passed the impugned order. Even if there is no any evidence, the 2nd respondent ought to have granted opportunity to the petitioner Management to let evidence. Therefore, the impugned order passed by the 2nd respondent is against law and the same is liable to quashed.

4. The learned counsel appearing for the 1st respondent would submit that the petitioner Management issued a Charge Memo with false allegations and the same was suitably replied by the 1st respondent. The domestic enquiry was not conducted by following the principles of natural justice. For



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the unauthorized absence of 8 days, the Disciplinary Authority has passed an order by dismissing the 1st respondent from service and the same is too harsh and the approval petition was not filed simultaneously at the time of passing of dismissal order. Therefore, the Approval Authority has passed a reasoned order and the present petition is liable to be dismissed.

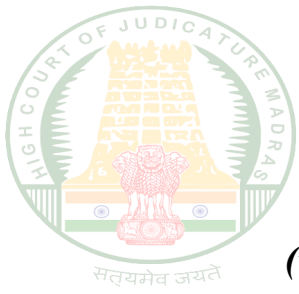
5. In support of his arguments, the learned counsel appearing for the 1st respondent has relied upon the following judgments:

(i) Syed Zaheer Hussain v. Union of India and others reported in (1999) 9 SCC 86.

(ii) Jagdish Singh v. Punjab Engineering College & others reported in (2009) 7 SCC 301.

(iii) Tamil Nadu State Transport Corporation (Villupuram) Ltd., vs. The Joint Commissioner of Labour (Conciliation) reported in 2011 1 LLJ 646 (Mad).

(iv) The Management, Tamil Nadu State Transport Corporation (Coimbatore) Ltd., v. The Special Joint Commissioner of Labour in W.P. No.12736 of 2025; and



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***(v) The General Manager, Tamil Nadu State Transport Corporation
(Villupuram) Ltd., v. The Special Deputy Commissioner of Labour and
another in W.A. No.1853 of 2023.***

6. Heard both sides and perused the entire materials available on record.

7. The petitioner Management initiated the disciplinary proceedings against the 1st respondent and during the enquiry proceedings, the 1st respondent also participated and thereafter, the Disciplinary Authority rendered findings that the charges against the 1st respondent were proved. The 1st respondent has not denied the absence for a particular period as mentioned in the Charge Memo. According to him, due to his ill-health, he was unable to attend the work, but the Disciplinary Authority accepted the report of the Enquiry Officer and awarded punishment of dismissal from service. The Approval Authority in the order, after referring the guidelines laid down in ***Lalla Ram vs. DCM Chemical Works reported in AIR 1978 (C) 1004***, held that 'no principles of natural justice have been followed and as per the records, the department witnesses were not cross examined by the 1st



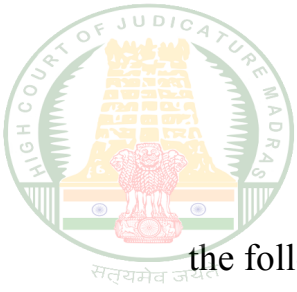
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respondent and no records found that sufficient opportunity was given to the 1st respondent to cross examine the witnesses, thereby, the Disciplinary Authority violated the principles of natural justice'. Further the Tribunal observed that 'there is no prima facie case established based on the acceptable evidence in the disciplinary proceedings'. Therefore, the above said order is based on the evidence produced before the 2nd respondent.

8. This Court also perused the entire records. On perusal of records, it is clear that the 1st respondent absented from duty for 8 days from 21.04.2021 onwards. It is also an admitted fact that the department witnesses have not been cross examined by the 1st respondent. No records to show that sufficient opportunity was given to the 1st respondent to cross examine the witnesses, thereby, sufficient opportunity was not given to the 1st respondent. Moreover, the Disciplinary Authority has awarded major punishment of dismissal from service, for the unauthorized absence and the same is also too harsh. Further, the Approval Petition was not filed simultaneously along with the dismissal order. The date of dismissal order on 30.11.2012 and the approval petition was filed on 05.12.2012.

9. The learned counsel appearing for the 1st respondent has relied upon



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the following judgments:

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(i) Syed Zaheer Hussain v. Union of India and others reported in (1999) 9 SCC 86.

(ii) Jagdish Singh v. Punjab Engineering College & others reported in (2009) 7 SCC 301.

(iii) Tamil Nadu State Transport Corporation (Villupuram) Ltd., vs. The Joint Commissioner of Labour (Conciliation) reported in 2011 1 LLJ 646 (Mad).

(iv) The Management, Tamil Nadu State Transport Corporation (Coimbatore) Ltd., v. The Special Joint Commissioner of Labour in W.P. No.12736 of 2025; and

(v) The General Manager, Tamil Nadu State Transport Corporation (Villupuram) Ltd., v. The Special Deputy Commissioner of Labour and another in W.A. No.1853 of 2023.

9.1. On a careful perusal of the above said judgments, it is clear that dismissal from service is too harsh in the case of unauthorized absence and the approval petition is liable to be dismissed, if it is not filed simultaneously at the time of issuance of dismissal order. Further, in the case on hand, no sufficient opportunity was given to the 1st respondent to cross examine the



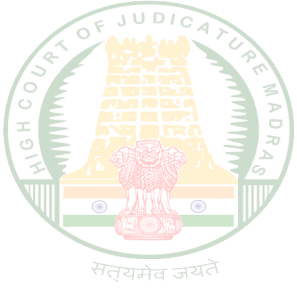
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witnesses and no prima facie case is made out based on the acceptable evidence. The approval petition was not filed simultaneously at the time of issuance of dismissal order and punishment of dismissal from service was awarded for the unauthorized absence. Therefore, the 2nd respondent after recording the above said reasons, declined to grant permission and there is no illegality or perversity found in the order passed by the 2nd respondent. Therefore, there is no warrant to interfere with the order passed by the 2nd respondent.

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

11. Accordingly, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is 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.

P. DHANABAL, J.,

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