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W.P. No.11752 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.11752 of 2022
and W.M.P. No.11211 of 2022

The Management of
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Trichy Region,
Trichy - 620 001.

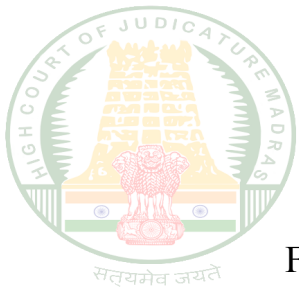
.. Petitioner

vs.

P. Mathivanan (Deceased)
1. Saritha D/o. P. Mathivanan
2. Saivishnu S/o. P. Mathivanan

3. 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 16.11.2021 passed by the 3rd respondent in Approval Petition No.60 of 2019 and quash the same and consequently, direct the 3rd respondent to approve the order of the petitioner dated 31.01.2019 dismissing the 1st respondent from service.



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For Petitioner : Mr. Murali Vinodh

For Respondents : Mr. K.M. Ramesh, Senior Counsel
for Mr. S. Sakthivel [for R1]

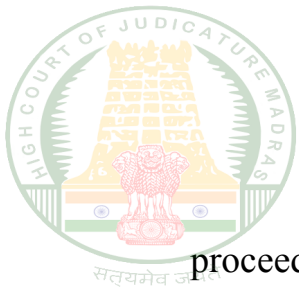
Mr. L.S.M. Hasan Fizal
Addl. Government Pleader [for R2]

ORDER

This Writ petition has been filed as against the order passed by the 3rd respondent in Approval Petition No.60 of 2019 dated 16.11.2021 and consequently, direct the 3rd respondent to approve the order of the petitioner dated 31.01.2019 dismissing the 1st respondent from service.

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

The deceased Mathivanan, represented by 1 and 2 respondents, was working as a 'Driver' in the Petitioner Corporation. While he was joining duty in the petitioner Corporation, he produced his S.S.L.C. Marksheet, which was fraudulently created by altering the marks. Therefore, the petitioner Corporation issued a Charge Memo dated 21.07.2018 against the deceased Mathivanan, for which, he submitted his reply. Being not satisfied with the reply submitted by him, the petitioner Corporation conducted a domestic enquiry. The deceased Mathivanan also participated in the enquiry

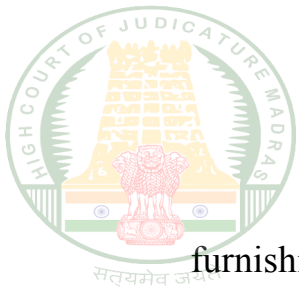


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proceedings. Thereafter, the Enquiry Officer rendered findings that the charges against the deceased Mathivanan were proved. The Disciplinary Authority issued a second Show Cause Notice dated 28.12.2018 on the deceased Mathivanan along with the copy of the enquiry report and the same was not replied by him. Thereafter, the Disciplinary Authority awarded a punishment of dismissal of service through an order dated 31.01.2019. Further, the petitioner Management filed an application for approval under Section 33(2)(b) of the Industrial Disputes Act before the 3rd respondent in A.P. No.60 of 2019. The 3rd respondent refused to grant approval and the said order is now under challenge through this Writ petition by the Management.

3. The learned counsel appearing for the petitioner Management would submit that the deceased Mathivanan produced his S.S.L.C. Marksheet by altering the marks at the time of entering into the petitioner Corporation as 'Driver', thereby the petitioner Corporation initiated Disciplinary proceedings and the Enquiry officer rendered findings after giving opportunity to the deceased Mathivanan to take part in the enquiry proceedings and the report of the Enquiry Officer was accepted by the Disciplinary Authority and after



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furnishing the copy of enquiry report to the deceased workman, a punishment of dismissal from service was awarded to him. Further, the petitioner Corporation filed an Approval petition before the 3rd respondent after complying all the formalities as per the guidelines issued by the Hon'ble Supreme Court in ***Lalla Ram vs. DCM Chemical Works reported in AIR 1978(C) 1004***. However, the 3rd respondent erroneously declined to grant approval. Therefore, the impugned order passed by the 3rd respondent is liable to be set aside.

4. The learned counsel appearing for the respondents 1 and 2 would submit that the charge against the workman / deceased Mathivanan was that the S.S.L.C. Marksheet submitted by the deceased was sent to the Directorate of Government Examinations and the same was compared with original document. At that time, they found that the certificate submitted by him is bogus and he has produced the same, by altering the marksheets. In order to prove the same, the Disciplinary Authority failed to examine the Staff of the Directorate of Government Examinations and failed to examine the material witness and there is no clear evidence as to which document is genuine one. In the document produced by the deceased, there is no any alterations in the



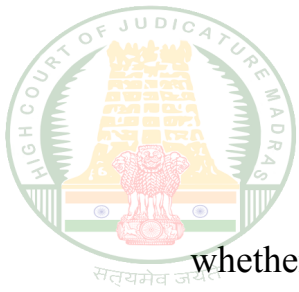
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marks, which was produced before the petitioner Management at the time of joining duty. Therefore, there is no prima facie case made out based on the acceptable evidence. The original document from the Directorate of Government Examinations has not been marked. Therefore, the Authority passed a reasoned order and declined to grant approval. The order passed by the 3rd respondent is in accordance with law and therefore, the present Writ petition is liable to be dismissed.

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

6. In this case, the charge against the deceased Mathivanan is that at the time of joining duty as a 'driver' in the petitioner Corporation, he produced the S.S.L.C marksheet and later, on verification, it was found that the said marks mentioned in the mark sheet submitted by the deceased, are not tallied with the marksheet issued by the Directorate of Government Examinations. For the said act, a Charge Memo was issued to the deceased and a domestic enquiry was conducted. During the enquiry proceedings, no any witness from the Directorate of Government Examinations was examined to ascertain



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whether the document submitted by the deceased during the time of his joining in the petitioner Corporation, is a forged one or not. There is no evidence as to who forged the document. Though the petitioner Corporation had sent a letter to the Directorate of Government Examinations and they also replied the same by stating that there are differences in the marks obtained by the deceased, there is no evidence as to who created the forged document and which one is forged document. Therefore, there is no prima facie evidence to prove that the deceased has only created the forged marksheet. The failure on the part of the petitioner to examine the Authority from the Directorate of Government Examinations, is fatal to the case.

7. In this context, the learned counsel appearing for the 1st respondent has relied upon a judgment of Hon'ble Division Bench of this Court in ***The Management, Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., vs. M. Periyasamy and another in W.A. No.803 of 2024***, wherein this Court, in para no.6, held as follows:-

"6. A perusal of the impugned order shows that a charge memo was issued to the 1st respondent/workman for submitting a false certificate, thus, cheating the Corporation and joined duty. The 1st respondent submitted his explanation and domestic enquiry was also conducted. In the enquiry, the false certificates claimed to have been issued by the concerned Educational Officer were marked as management side documents but the person who was alleged to have



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given the false document was not examined by the management. The principles laid down in the decision reported in AIR 1978 (SC) 1004 Lalla Ram Vs. Management of DCM Chemicals, has been correctly followed by the Labour Court and has held that the genuineness of the record sheet of the 1st respondent was not confirmed, as no efforts were taken to examine the officer who issued the certificate to the 1st respondent and also held that there is no prima facie case made out under enquiry for passing the order of dismissal. Therefore, we are of the view that the order passed by the Writ Court, confirming the order passed by Labour Court, need not be interfered with".

8. In the case on hand also, the Management failed to examine the officials from the Directorate of Government Examinations, who issued the marksheet to the deceased Mathivanan. Therefore, the order passed by the 3rd respondent declining to grant approval is in order and it does not warrant interference.

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

10. 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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