



WEB COPY

WP No. 14395 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

**WP No. 14395 of 2022
and WMP No.13612 of 2022**

1. The General Manager
Tamil Nadu state Transport corporation
(Villupuram) Limited, Kancheepuram
Division, Kancheepuram District 631
552

Petitioner(s)

Vs

1. G.Ramalingam (No. 18658)
No.1, First Street , Sri Ramulu Nagar,
Achirapakkam, Kancheepuram District
603 301

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to call for the records relating to the order passed by the Presiding Officer , Labour Court, Kancheepuram, dated 19.02.2020 made in I.D. No. 45 of 2018 and quash the same.



WEB COPY

For Petitioner : Mr.T.Chandrasekaran

For Respondent(s): Mr. S.Sivakumar

ORDER

This writ petition has been filed challenging the award passed by the Labour Court, Kancheepuram in I.D.No.45 of 2018 dated 19.02.2020.

2. The short facts necessary to dispose this writ petition are as follows:

The respondent was appointed as Helper in the year 1993 in the petitioner Corporation. While so, the respondent is stated to have been in continuous unauthorized absence from duty from 29.04.2014 to 19.12.2014, and thereby a show cause notice dated 19.12.2014 was issued and the respondent also offered his explanation on 19.12.2014 stating that he was undergoing medical treatment for his spinal cord injury and hence he was unable to attend duty. Being not satisfied with the explanation offered by the respondent, the petitioner Corporation initiated disciplinary proceedings and charge memo dated 16.10.2015 and thereafter, domestic enquiry was conducted and the respondent



WEB COPY

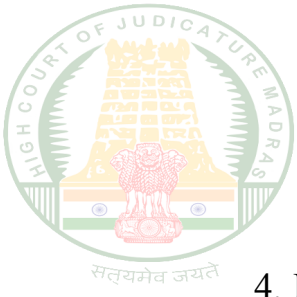
was removed from service by an order dated 16.08.2016. The said order was challenged before the Labour Court Kancheepuram in I.D.No.45 of 2018 and the Labour Court allowed the same by setting aside the order of dismissal passed by the petitioner Corporation and directed to reinstate the petitioner into service with continuity of service and all other attendant benefits and full back wages. Aggrieved by the said award, the present writ petition has been filed.

3. Mr.T.Chandrasekaran, the learned counsel for the petitioner, would submit that the respondent was appointed as Helper in the year 1993 and during his course of employment he continuously remained absent between 29.04.2014 and 19.12.2014 and thereby a show cause notice was issued to him on 19.12.2014. The respondent also submitted his explanation stating that due to the medical treatment undergone by him due to his spinal cord injury, he was unable to attend the duty and thereafter a second memo was issued on 07.10.2015 for his unauthorised absence and causing disturbance to the routine duty of the petitioner Corporation and for its revenue loss. Thereafter the Enquiry Officer conducted enquiry and rendered findings that the charges



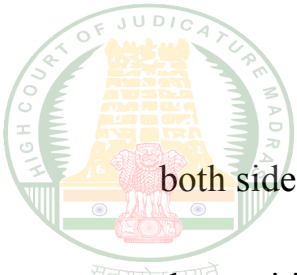
against the respondent were proved. Thereafter explanation was called from the respondent. He also submit the explanation and the same was not found satisfactory. Therefore, a final order dated 16.08.2016 was passed by the Corporation and the respondent was removed from service. The respondent challenged the said order before the Labour Court, Kancheepuram in I.D.No.45/2018.

3.1 The learned counsel for the petitioner further submitted that the Labour Court failed to consider that the domestic enquiry was conducted after affording opportunities to the respondent by following the principles of natural justice and failed to consider that the respondent was in unauthorised absence without any intimation which amounts to serious misconduct. The Labour Court without considering the oral and documentary evidence adduced by the petitioner Corporation, erroneously set aside the punishment awarded by the petitioner and directed the petitioner to reinstate the respondent into service with continuity of service and all attendant benefit and full back wages. Therefore the order passed by the Labour Court is liable to be set aside.



WEB COPY

4. Mr.S.Sivakumar, the learned counsel for the respondent, would submit that the petitioner issued a charge memo to the respondent for his absence from 29.04.2014 to 19.12.2014. In fact the respondent duly informed the petitioner Corporation about his health condition that his spinal cord was affected and thereby he has undergone surgery. Due to illness, the respondent was unable to attend the duty but the same was not considered by the petitioner Corporation. Without following the principles of natural justice, the Enquiry Officer conducted the enquiry and also rendered an erroneous finding that the charges against the petitioner were proved. When the petitioner applied for medical leave, without considering the same, the petitioner Corporation framed charges on the ground of “unauthorized absence”. The Corporation also provided with an alternative job to the respondent and his duty time in that job was from 06.00p.m. to 10.a.m. As the respondent was continuously taking treatment for his spinal cord injury, he was unable to attend the duty regularly. Therefore, the dismissal from service is unjustifiable. The respondent raised ID before the Labour Court and the Labour Court, after considering the evidence adduced on



both sides allowed the ID and set aside the order of dismissal on the ground that

the petitioner was not on unauthorised absence and he informed about his

disability but the same was not considered by the petitioner Corporation.

Therefore, the order passed by the Labour Court is a well reasoned order and

the present writ petition is liable to be dismissed.

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

6. There is no dispute that the respondent was working under the petitioner Corporation and while so he met with an accident and the Corporation provided alternative job to him and his duty was between 06.00 pm to 10 am.

The respondent was taking treatment continuously. While the petitioner Corporation issued charge memo to the respondent stating that he was in unauthorized absence from 29.04.2014 to 19.12.2014, the respondent in his reply stated that he was undergoing medical treatment and thereby he was unable to attend duty. The domestic enquiry was conducted after issuing notice

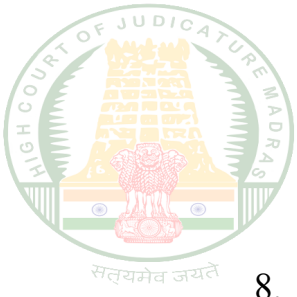


to the respondent and the respondent also participated in the domestic enquiry

and the same was also evidenced through the records. Therefore, sufficient

opportunity was given to the respondent in domestic enquiry proceedings.

7. As far as the charges are concerned the respondent without any prior intimation was absent in duty. It is also an admitted fact that the petitioner was referred to Medical Board and the Corporation also sent the respondent for medical opinion. Therefore the Corporation itself admitted that the respondent was medically not doing well due to his spinal cord injury. The Medical Board also assessed the respondent and found that he is fit to resume duty from 26.09.2014. Once the respondent informed the Corporation about his inability to attend the duty on medical ground and the Corporation referred him for Medical Board, it cannot be termed as “unauthorised absence”. Even as per the Medical certificates issued to the respondent, he was advised to take treatment and rest for his injury from 26.09.2014 to 16.12.2014. Therefore, the respondent remained absent on account of his health grounds and it cannot be termed as “unauthorised absence”.



WEB COPY

8. In order to support his contention, the learned counsel for the respondent relied upon the decision of the apex Court in ***Krushnakant B. Parmar vs. Union of India & Anr.***, reported in ***2012(3) SCC 1778***, wherein it is held that if disciplinary authority failed to prove that the absence was wilful, the absence will not amount to misconduct. In the case on hand also the respondent was absent in duty due to his ill health and therefore the absence is neither wilful nor wanton. Therefore, the charges against the respondent that he was in unauthorised absence from 29.04.2014 to 19.12.2014 was not proved by the petitioner Corporation. The petitioner Corporation failed to prove that the above period of absence was wilful or wanton. Per contra, the respondent proved that he was undergoing medical treatment for his spinal cord injury and thereby he was unable to appear for duty. Therefore, the charges against the respondent was not proved.

9. The above said aspects were well considered by the Labour Court and rightly came to a conclusion that the charges against the respondent were



proved and therefore the punishment of dismissal of service was rightly set aside by the Labour Court. Thus there is no perversity or illegality in the order

passed by the Labour Court and it does not warrant interference by this Court.

10. In view of the above stated reasons, this Writ Petition has no merits and the same deserves to be dismissed.

11. Accordingly this Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

07-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

bkn



WEB COPY

WP No. 14395 of 2022



P.DHANABAL J.

bkn

To:

The Presiding Officer, Labour Court, Kancheepuram.

WP No. 14395 of 2022

07-07-2025