



W.P.No.12912 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.12912 of 2025

and

W.M.P.No.14437 of 2025

The Management,
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Pudukkottai Region,
51/1, Pillai Thanner Pandhal,
Thirumayam Road, Pudukkottai – 622 001. ... Petitioner

Vs.

1.V.Arumugam
2.The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 24.07.2023 passed by the second respondent in Approval Petition No.91 of 2023 and quash the same, consequently direct the second respondent to approve the order of the petitioner dated 24.05.2023 dismissing the first respondent from service.

For Petitioner : Mr.M.Murali Vinodh

For Respondents : Mr.K.Surendran
Additional Government Pleader [R2]



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ORDER

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This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 24.07.2023 passed by the second respondent in Approval Petition No.91 of 2023 and quash the same, consequently direct the second respondent to approve the order of the petitioner dated 24.05.2023 dismissing the first respondent from service.

2. Since no adverse order has been passed against the 1st respondent, notice to the 1st respondent is dispensed with.

3. The case of the petitioner is that, the 1st respondent was employed as a Conductor with the petitioner corporation. It is further stated that the 1st respondent was unauthorizedly absent from duty from 17.01.2022 for a period of more than a year. A charge memo was issued on 02.01.2023, which was received by the 1st respondent and his explanation was found to be unsatisfactory. A domestic enquiry was initiated, and after due process, the Enquiry Officer found the 1st respondent guilty, and the enquiry report was submitted on 21.03.2023. Considering the findings and the past conduct of the 1st respondent, a second show-cause notice was issued on 26.04.2023 proposing



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dismissal. As no explanation was provided, the 1st respondent was dismissed on 24.05.2023. Thereafter, the petitioner filed an Approval Petition u/s 33(2)(b) of the Industrial Disputes Act, 1947 (in short 'the Act') in A.P.No.91 of 2023 before the 2nd respondent. On 24.07.2024, the 2nd respondent rejected the AP, holding that there was a violation of the principles of natural justice during the domestic enquiry, that the act of imposing the punishment of dismissal amounted to an unfair labour practice, and that the last drawn wages had not been paid to the 1st respondent. Challenging the same, the petitioner management has filed the present writ petition before this Court.

4. Learned counsel for the petitioner Corporation submitted that, the 2nd respondent ought to have considered the enquiry report in which it is clear that the opportunity has been given by the enquiry officer to the 1st respondent by allowing him to examine himself as witness and also has provided the opportunity to cross examine the management witness. Therefore, it shall not be construed that proper opportunity was not been given by the enquiry officer as the enquiry was completed in one day itself. Further, he submitted that the 2nd respondent has filed to note that, on the date of dismissal, the 1st respondent received a sum of Rs.24,140/- as salary from the petitioner Corporation. If there is any difference of amount, the 1st respondent should have claimed the same



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from the petitioner, without doing so, he raised a contention that he has not received proper one month wages from the petitioner. The 2nd respondent had mechanically accepted the said plea and without any reason has bluntly held that the petitioner Corporation has not paid one month wages properly, which is wholly unsustainable. Hence, the order of the 2nd respondent is liable to be set aside and accordingly, prayed for appropriate orders.

5. Heard the learned counsel for the petitioner and also perused the materials available on record.

6. Admittedly, the petitioner Corporation has passed the order of dismissal as against the 1st respondent on the ground of unauthorized absence from duty, for which, the petitioner Corporation filed an approval petition before the Labour Court under Section 33(2)(b) before the first respondent/Labour Court. It is an undisputed fact that the approval petition has to be decided based on the law laid down by the Apex Court in the case of ***Lalla Ram Vs. Managment of D.C.M. Chemicals Works Ltd. & Ors.*** reported in ***AIR 1978 SC 1004***, wherein the Apex Court held as under :-

"(i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held;



- (ii) *whether a prima facie case for dismissal based on legal evidence adduced before the domestic tribunal is made out;*
- (iii) *whether the employer had come to a bona fide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice and was not intended to victimise the employee;*
- (iv) *whether the employer has paid or offered to pay Wages for one month to the employee; and*
- (v) *whether the employer has simultaneously 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."*

7. In the present case, all the above aspects has been elaborately considered by the Labour Court while rejecting the approval petition filed by the petitioner Corporation. It is evident from the materials available on record that, the enquiry was not conducted in accordance with law and that there is a violation of principles of natural justice and further, one month salary was not paid to the 1st respondent, which are the reasons, the Labour Court rejected the approval sought for. The order passed by the Labour Court does not suffer any perversity and the rejection of the approval petition is fully justified and the same cannot be interfered with.



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M.DHANDAPANI, J.

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8. For the reasons aforesaid, this Writ Petition stands dismissed. No costs.

Consequently, the connected writ miscellaneous petition is closed.

15.04.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

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

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