



W.P.No.12542 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.12542 of 2025

and

WMP.No.14131 of 2025

The Management,
Tamilnadu State Transport Corporation (Kumbakonam) Limited,
Pudukottai Region, 51/1, Pillai Thanner Pandhal,
Thirumayam Road, Pudukottai – 622 001.

...Petitioner

Vs.

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

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 24.07.2023 passed by the 2nd respondent in Approval Petition No.43 of 2023 and quash the same, consequently direct the 2nd respondent to approve the order of the petitioner dated 03.04.2023 dismissing the 1st respondent from service.



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For Petitioner : Mr.M.Murali Vinodh

For Respondents : Mr.K.Surendran, APG, for R2

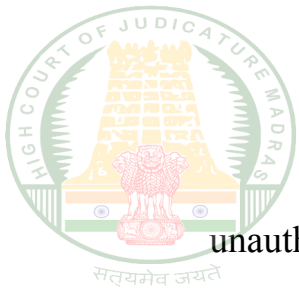
ORDER

This Writ petition has been filed seeking quashment of the order of the 2nd respondent dated 24.07.2023 made in A.P.No.43 of 2023 and consequently to direct the 2nd respondent to approve the order of the petitioner dated 03.04.2023, dismissing the 1st respondent from service.

2. Mr.K.Surendran, learned Additional Government Pleader takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this Writ petition is taken up for final disposal at the admission stage itself.

3. Since no adverse order is being passed against the 1st respondent, notice to the 1st respondent is dispensed with.

4. The case of the petitioner is that the 1st respondent was working as a Junior Tradesman in the petitioner corporation. While so, 1st respondent was



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unauthorizedly absent from service for about 540 days, therefore a charge memo dated 19.01.2023 was issued by the petitioner as against the 1st respondent, for which, as no explanation was submitted by the 1st respondent, domestic enquiry was ordered and a notice of hearing was served on the 1st respondent and he also participated in the enquiry. After conducting enquiry, the Enquiry Officer submitted his findings on 10.02.2023 and based on the said Enquiry Report, the 1st respondent was dismissed from service on 03.04.2023. Parallely, an Approval Petition in A.P.No.43 of 2023 was filed by the petitioner before the 2nd respondent, however, the same was rejected, vide impugned order dated 24.07.2024 on the ground that the principles of natural justice were not followed during the domestic enquiry. Challenging the same, the petitioner Management has filed the present Writ petition.

5. Learned counsel for the petitioner corporation submitted that, the petitioner corporation is a Government undertaking established for the purpose of providing economic transport facilities to the surrounding public and also to provide employment opportunities to eligible persons in and around of its area. It is pertinent to note that the petitioner corporation is an



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employee oriented organization and if any one of the crew member absented unauthorizedly, then there will be dislocation of operation of the management. While so, as the 1st respondent was unauthorisedly absent from duty from 11.10.2021 to 03.04.2023 for about 540 days, the petitioner Management proceeded with the enquiry by issuing a charge memo on 19.01.2023, for which, the 1st respondent failed to submit any reply to prove his innocence. Hence, the petitioner proceeded with the domestic enquiry after issuing notice and the 1st respondent/workman participated in the enquiry conducted on 09.02.2023, in which the 1st respondent/workman was also cross examined and thereafter, the Enquiry officer submitted his findings on 10.02.2023 and the same was also served on the 1st respondent on 14.02.2023, for which the 1st respondent failed to submit any reply. Therefore, the petitioner Management issued the second show cause notice on 10.03.2023, for which also, no reply/explanation was submitted by the 1st respondent. Ultimately, the order of dismissal came to be passed as against the 1st respondent. Learned counsel further submitted that the approval petition has to be decided on the basis of 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***, and in the present case,



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though the petitioner Management, has complied with all the procedures as laid down by the Hon'ble Apex Court, however, the 2nd respondent had dismissed the approval petition filed by the petitioner solely on the ground that the enquiry was not conducted in a fair and proper manner and on the basis that the enquiry was conducted on only one day and the Enquiry officer submitted the report on the very next day, which is wholly unsustainable. Merely because the enquiry was conducted on 09.02.2023 and the enquiry report was submitted on 10.02.2023, the same cannot be a ground to hold that the enquiry was not conducted in a fair and proper manner by the petitioner. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned Additional Government Pleader appearing on behalf of the 2nd respondent submitted that the domestic enquiry was conducted in a hurried manner as the enquiry was conducted on 09.02.2023 and on the very next day, the Enquiry Report has been submitted by the Enquiry Officer and without obtaining any reply from the 1st respondent to the enquiry report, a second show cause notice dated 10.03.2023 was issued and subsequently, the order of dismissal dated 03.04.2023 was issued against the 1st respondent and since there is a clear violation of the principles



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of natural justice, the 2nd respondent has rightly rejected the approval petition by the impugned order, which cannot be said to be erroneous. Accordingly, he prayed for dismissal of this Writ petition.

7. Heard learned counsel on either side and perused the materials available on record.

8. The ingredients which should be satisfied by the employer while filing the approval petition have been spelt out in the decision of the Apex Court in ***Lalla Ram Vs. D.C.M. Chemical Works Ltd. and Ors.***, reported in ***AIR 1978 SC 1004***, wherein the Supreme Court held thus :-

"(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;



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(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."

9. From the materials available on record it is evident that the enquiry was conducted on 09.02.2023 and the enquiry report was filed on the very next day ie., on 10.02.2023 and this Court is unable to understand what explanation the 1st respondent/workman would have submitted and how the enquiry was conducted within one day. Further, the petitioner corporation failed to produce the enquiry report either before the 2nd respondent or before this Court. Further, no documentary proof had been filed to show that the domestic enquiry was conducted after following the principles of natural justice and as per law. Thereby, the 2nd respondent-labour court, after careful consideration of all the above said facts and also considering the fact that, for mere unauthorised absence, imposing a maximum punishment of dismissal from service is highly disproportionate and that, the action initiated against the employee was not integral, had rejected the approval



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petition filed by the petitioner corporation, since, there is no due compliance of the guidelines enunciated in *Lalla Ram* case.

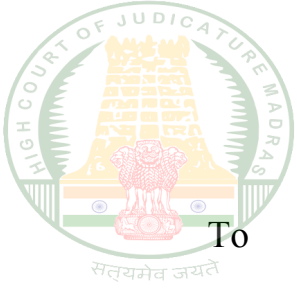
10. Hence, this Court is of the view that, the Labour Court has considered all the material aspects and has rightly rendered a finding that there is clear violation of the safeguards provided under section 33(2)(b) of the ID Act and, therefore, approval cannot be granted and this Court, upon careful perusal, is in agreement with the decision arrived by the Labour Court and is not inclined to interfere with the order impugned in this Writ petition, as the same does not suffer from perversity.

11. For the reasons aforesaid, this Writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

09.04.2025

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NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No



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