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WP No. 14120/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP No. 14120/2021 & WMP.No.14998/2021

The Management
Tamil Nadu State Transport
Corporation [Kumbakonam Division]
Ltd., rep.by its General Manager,
27, Railway Station New Road
Kumbakonam 612 001.

Petitioner(s)

Vs

1.A.Kannan

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

Respondent(s)

PRAYER

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records pertaining to the order dated 08.04.2021 passed by the 2nd respondent in



Approval petition No.62 of 2011, and to quash the same and consequently direct the 2nd respondent to approve the order of the petitioner dated 14.02.2011 dismissing the 1st respondent from service.

For Petitioner: Mr.C.Senapathi

For Respondents: Mrs.C.S.Rajalakshmi for R1
Legal Aid Counsel
Mrs.M.Jayanthi, AGP for R2

ORDER

(1) This writ petition is filed by the Transport Corporation for certiorarified mandamus to call for the records of the 2nd respondent pertaining to his proceedings in AP.No.62/2011 dated 08.04.2021, and to quash the same and consequently direct the 2nd respondent, to allow the approval petition filed pursuant to the termination order by the petitioner/Transport Corporation in AP.No.62/2011.

(2) This is the 2nd round of litigation. Earlier, the petitioner Management filed writ petition in WP.No.42465/2016. The petitioner will be referred to as "Transport Corporation" and the 1st respondent as "workman".



(3) The workman was employed as a Conductor in the Transport Corporation.

While so, the workman was absent from duty without leave from May 2009 to August 2009, which violated Rule 24[6][A] of the Standing Order of the Transport Corporation. Therefore, the Transport Corporation, issued a charge memo to the workman. Though the workman had received the charge memo, he did not submit any explanation and so the Transport Corporation, sent the charge memo, to him through registered post with acknowledgement. Since the Transport Corporation did not receive any reply from the workman, it decided to conduct domestic enquiry on the above said charge memo and appointed an enquiry officer to conduct the enquiry. The enquiry officer sent a notice to the workman to appear for enquiry. Though the workman received the notice, he did not participate in the enquiry proceedings. The enquiry officer therefore, submitted an exparte report on 09.06.2010, to the Transport Corporation, finding the workman, guilty of the charges. The Transport Corporation, by letter dated 17.06.2010, sought for an explanation from the workman. Even though the workman received the letter, he did not reply and therefore, the Transport Corporation, decided to accept the enquiry



report dated 09.06.2010. A 2nd show cause notice dated 22.11.2010 was issued to the workman calling for his explanation to the proposed punishment of dismissal from service. Since there was no response to the said notice also, the Transport Corporation, passed the impugned order of dismissal on 14.02.2011, against the workman. Later, the Transport Corporation, filed a petition under Section 33[2][B] of the Industrial Disputes Act, before the 2nd respondent. However, the 2nd respondent dismissed the Approval Petition by order dated 04.04.2016. The Transport Corporation challenged the rejection order in WP.No.42465/2016 and this Court, by order dated 09.01.2020, allowed the writ petition. Thereafter, the matter was taken up by the Labour Court and by the impugned order dated 08.04.2021, the Labour Court again rejected the Approval Petition. Aggrieved by the impugned order dated 08.04.2021, the Transport Corporation, has filed the writ petition for the aforesaid relief.

(4)*The* workman filed a detailed counter reiterating the aforesaid facts and further prayed for the dismissal of the writ petition.

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



(6) The Labour Court, in its impugned order dated 08.04.2021, following the judgment of the Hon'ble Supreme Court in the case of ***Lalla Ram Vs. DCM Chemical Works***, reported in ***AIR 1978 SC 1004***, framed the following issues:-

- 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) After framing the aforesaid issues, by the impugned order, the Labour Court dismissed the Approval Application. The issue is whether the rejection of the Approval Application is sustainable.

(8) From the materials on record, it is seen that earlier the Labour Court dismissed the Approval Application by its order dated 04.04.2016 and aggrieved by such dismissal, the Transport Corporation filed a writ petition in WP.No.42465/2016. This Hon'ble Court allowed the writ petition on 09.01.2020. The operative portion of the order at paragraph No.11 reads as follows:-

"11.As already stated supra, the quantum of salary payable on the date of dismissal as existed then alone should be taken into consideration to find out as to whether such salary was paid in full or not. In this case, the 2nd respondent has taken note of the subsequent development, viz., issuance of G.O.98 dated 28.03.2011, giving a retrospective benefit to conclude that the 1st respondent was not paid full one month salary. I find that the said finding is unsustainable and consequently, the order of the 2nd respondent refusing to grant approval also cannot be



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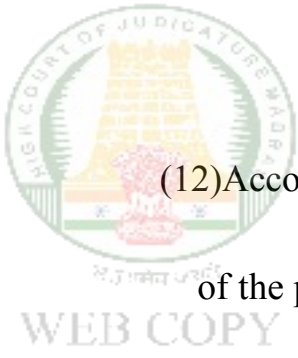
sustained. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the 2nd respondent is directed to grant approval within a period of four weeks from the date of receipt of a copy of this order.

No costs. The connected miscellaneous petition is closed."

(9) From the aforesaid order of this Court, it is evident that the Labour Court had no option but to grant approval. However, as a clear misconception and misinterpretation of the said order, the Labour Court assuming unto itself the authority to reconsider the issue, proceeded to dismiss the Approval Application. Such dismissal is manifestly erroneous and in direct contravention of the positive direction issued by this Court.

(10) Accordingly, this Court finds that the impugned order in AP.No.62/2011 dated 14.02.2011, is unsustainable and hence, it is set aside.

(11) Though the petitioner has prayed for a direction to the 2nd respondent to grant approval, this Court, considering that this is the 2nd round of litigation, deems it appropriate to grant approval to the petitioner's dismissal order dated 14.02.2011.



(12) Accordingly, the writ petition is **allowed**. Approval is granted to the order of the petitioner dated 14.02.2011, dismissing the 1st respondent from service.

However, it is open to the workman to challenge his dismissal by raising a dispute, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

08-10-2025

Dpq/AP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

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



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N.MALA J.

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