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W.P. No.14264 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.14264 of 2022
and W.M.P. No.13509 of 2022

The Management,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Trichy Region, Trichy-1. .. Petitioner
vs.

1. N. Sivakumar S/o. K. Narasimman
2. The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai-6. .. 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 03.12.2021 passed by the 2nd respondent in Approval Petition No.8 of 2020 and quash the same, consequently, direct the 2nd respondent to approve the order of the petitioner dated 29.02.2020 dismissing the 1st respondent from service.

For Petitioner : Mr.M. Murali Vinodh

For Respondents : Mr. S.T. Varadarajulu

ORDER

This Writ petition has been filed by the petitioner Management challenging the order passed by the 2nd respondent in Approval Petition No.8



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of 2020 dated 03.12.2021.

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

The 1st respondent was working as Helper in the petitioner Corporation. On 05.11.2019 at about 6.15 p.m., the 1st respondent had come in front of the main gate of the Trichy region Head Office and proceeded towards ATP office. The Watchman who was standing in front of the gate had stopped him and informed him that office had already been over. But the 1st respondent trespassed into the office and scolded the Watchman and other Staff of the Head Office in filthy language and also threatened him with dire consequences. Thereby, the petitioner Corporation issued a Charge Memo dated 06.11.2019 against the 1st respondent. For the said charge memo, an explanation was offered by the 1st respondent and the same was not satisfactory. Therefore, the petitioner decided to conduct a domestic enquiry and the enquiry officer submitted the enquiry report dated 06.12.2019 stating that the charges against the delinquent were proved. Thereafter, the petitioner Corporation issued a Show Cause Notice to the 1st respondent dated 14.02.2020 and the same was suitably replied by the 1st respondent on 24.02.2020. Being not satisfied with the reply submitted by the 1st



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respondent, the petitioner Management has passed an order of dismissal dated 29.02.2020 against the 1st respondent. The copy of the dismissal order was served to the 1st respondent on 31.07.2020 along with one month salary. Thereafter, the petitioner Management filed a petition under Section 33(2)(b) of the Industrial Disputes Act before the 2nd respondent / the Special Joint Commissioner of Labour, Chennai for getting approval for the dismissal order in A.P. No.8 of 2020. The 2nd respondent declined to grant permission on the ground that no prima facie case was found based on the acceptable evidence and no one month salary was given to the 1st respondent. Aggrieved by the said order, the petitioner Corporation preferred this Writ petition.

3. The learned counsel appearing for the petitioner Management would submit that the 1st respondent was working as a Helper in the petitioner Corporation. While so, he trespassed into the office on 05.11.2019 after working hours and the same was questioned by the Watchman. At that time, he scolded the Watchman and other Staff of the Head Office in filthy language. Therefore, a Charge Memo was issued to him and thereafter, a domestic enquiry was conducted. As per the report of the Enquiry Officer, the charges against the 1st respondent were proved, thereby, the Disciplinary Authority after affording opportunity to the 1st respondent, passed an order of



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dismissal from service. The petitioner Corporation also filed a petition before the Approval Authority under Section 33(2)(b) of Industrial Disputes Act, but the 2nd respondent, without appreciating the facts of the case, erroneously declined to grant permission. The Approval Authority came to a conclusion that the competent witnesses have not been examined and he should have given opportunity to the Management to let evidence. While exercising jurisdiction under Section 33(2)(b) of the Industrial Disputes Act, the Authority has to see whether prima facie case has been made out with regard to the validity or otherwise domestic enquiry held against the delinquent employee and he cannot substitute his own judgment. The Approval Authority failed to consider that the date of dismissal order is on 29.02.2020 and on the same day, the Approval petition was sent to the Approval Authority and it reached the 2nd respondent on 03.03.2020. Therefore, the reasons given in the order of the Approval Petition by the 2nd respondent are not acceptable and the order passed by the 2nd respondent is liable to be set aside by allowing the present Writ petition.

4. The learned counsel appearing for the 1st respondent would submit that the petitioner Management issued a Charge Memo to the 1st respondent for the alleged delinquency of threatening the Watchman and other Staff of



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the petitioner office on 05.11.2019. In fact, no such incident was taken place.

On 01.11.2019, there was an agitation conducted by the Union people and even after completion of 4 years, his service was not regularized, thereby, in order to give representation, he tried to proceed to the ATP Union Office. At that time, the Watchman made a quarrel with the 1st respondent and misbehaved with him. For that, a charge memo was issued to the 1st respondent and the same was suitably explained by him. Without accepting the explanation offered by the 1st respondent, the petitioner Corporation conducted a domestic enquiry without following the due procedures. The enquiry was conducted without observing the principles of natural justice. The enquiry report was not furnished to the 1st respondent and the enquiry was conducted in a biased manner. The 1st respondent was drawing a salary of Rs.17,576/-, but the Management paid only Rs.6,000/-. Therefore, the Approval Authority, after perusing the records, came to a conclusion that there was no prima facie case based on the acceptable evidence and one month salary was not paid to the 1st respondent and there is a delay of 3 days in sending the enquiry approval petition after the date of dismissal order passed by the Authority. Therefore, the 2nd respondent has rightly declined to grant approval as sought for by the petitioner. Therefore, the order passed by the 2nd respondent is in order and the present Writ petition is liable to be



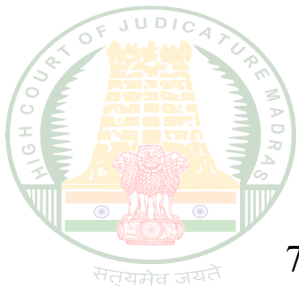
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dismissed.

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

6. In this case, there is no dispute in respect of relationship between the parties. The petitioner Corporation issued a Show Cause Notice to the 1st respondent for the delinquency of misbehaviour with the Watchman and other Staff of the petitioner office. The 1st respondent also submitted his explanation for the Show Cause Notice and the same was not accepted by the petitioner Management. Therefore a Charge Memo was issued to the 1st respondent, for which, he submitted his written statement of defence and the same has not been accepted. Thereafter, an Enquiry Officer was appointed and enquiry was conducted. The Enquiry Officer rendered his findings that the charges against the 1st respondent were proved. Thereafter, the petitioner filed an Approval Petition before the 2nd respondent and the 2nd respondent declined to grant permission on the ground that no prima facie case is made out based on the acceptable evidence and no one month salary was paid to the 1st respondent.



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7. This Court perused the documents. The Approval Authority, while deciding the fact that whether any prima facie case is made out based on the acceptable evidence in the disciplinary proceedings stated that the alleged occurrence took place on 05.11.2019 from 6.15 p.m. to 7.45 p.m., whereas the working hours is upto 5.45 p.m. Moreover, as per the department, the incident was videographed, but no such videograph was produced before the Enquiry Authority and there are no records to show that the 1st respondent was under the influence of alcohol. Therefore, there is no acceptable evidence to prove the prima facie case in the enquiry proceedings. Moreover, the petitioner has paid Rs.6,000/-towards one month salary, but as per the settlement under Section 12(3) of the Industrial Disputes Act, as on 29.02.2020, the 1st respondent's salary was worked out to Rs.17,576/-. Therefore, the entire one month salary was not paid to the 1st respondent by the petitioner Management. The above said aspects have been elaborately discussed by the 2nd respondent. Thereby, there is no perversity or illegality found in the order passed by the 2nd respondent.

8. It is well settled law that even the deficiency of a single rupee in the one month salary paid to the workman, the Approval cannot be granted on that ground of deficiency in payment of one month salary. Therefore, the 2nd



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respondent has passed a reasoned order by declining to grant permission to the petitioner Management for approval towards dismissal order of the petitioner Management.

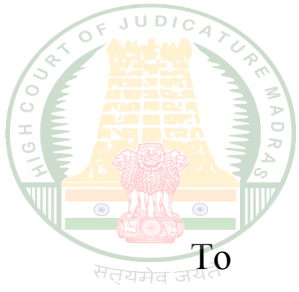
9. Therefore, as discussed above, this Court is of the opinion that the order passed by the 2nd respondent by declining to grant approval for the petition filed by the petitioner in A.P. No.8 of 2020 is in order and no perversity or illegality is found in the said order and hence the same does not warrant interference.

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

11. Accordingly, the 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



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To

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The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai-6.

P. DHANABAL, J.,

mjs

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