



W.P.No.23347 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

CORAM :

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

W.P.No.23347 of 2019

and

WMP.No.23093 of 2019

The Management,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Kancheepuram – 631 552.

...Petitioner

Vs.

1. U.M.Venkatesan (*Deceased*)
2. The Special Deputy Commissioner of Labour,
D.M.S. Compound,
Chennai – 600 006.
3. V.Samundeeswari
4. V.Kannan
5. V.Ananthavalli

...Respondents

(R3 to R5 are substituted as LR's of deceased R1, as per order dated 17.04.2025 made in WMP.No.15390 of 2025 in WP.No.23347 of 2019.)

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 2nd respondent made in A.P.No.207 of 2013 dated 13.03.2018 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.



W.P.No.23347 of 2019

WEB COPY

For Petitioner : Mr.M.Aswin

For Respondents : Mr.K.Surendran, AGP, for R2
: Mr.S.Ravi, for R3 to R5

ORDER

Questioning the correctness of the rejection order dated 13.03.2018 made by the 2nd respondent in the approval petition filed by the petitioner Transport Corporation in A.P.No.207 of 2013, the present Writ petition has been filed.

2. It is the case of the petitioner that the 1st respondent was employed as a Conductor in the petitioner Corporation since October 1984. While so, on 16.03.2012, when he was on duty as a conductor, it is alleged that the 1st respondent picked up a quarrel with the passenger and abandoned his duty and got down from the bus and walked away. It is the case of the petitioner corporation that the 1st respondent was in inebriated state. Based on the said misconduct, the petitioner corporation issued charge memo; conducted domestic enquiry and ultimately passed the order of dismissal from service as against the 1st respondent on 24.06.2013. On 28.06.2013, the petitioner Corporation presented the papers before the 2nd respondent seeking approval of the dismissal of the deceased 1st respondent/workman in A.P.No.207 of 2013.



W.P.No.23347 of 2019

WEB COPY However, the 2nd respondent, vide impugned order dated 13.03.2018 rejected the approval petition. Challenging the same, the present Writ petition has been filed.

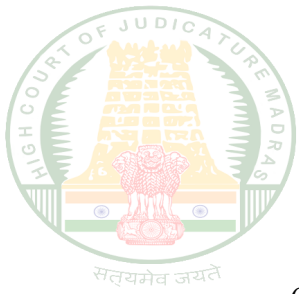
3. Heard the learned counsel on either side and perused the materials available on record.

4. 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;



W.P.No.23347 of 2019

WEB COPY

(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."

5. A perusal of the materials available on record particularly the impugned order it is evident that, the 2nd respondent applied the conditions enumerated by the Hon'ble Apex Court in the case of *Lalla ram* (supra) and tested each condition with the facts of the case. The petitioner corporation for the reasons best known to it, chose not to produce the enquiry proceedings before the 2nd respondent. In the absence of the enquiry proceedings, the 2nd respondent was not able to arrive at a decision whether the enquiry was conducted in a fair and proper manner, following the principles of natural justice. The absence of production of enquiry proceedings resulted in conditions one to three not satisfied. The petitioner management has produced documents to show that one month salary was sent to the deceased 1st respondent. Therefore, condition No.4 remained satisfied.

6. As noted earlier, the order of dismissal was made on 24.06.2013, however, the papers were presented before the 2nd respondent seeking approval



W.P.No.23347 of 2019

only on 28.06.2013 with a delay of four days. Therefore, the 2nd respondent

held that the fifth condition was also not satisfied.

7. For the said reasons, the 2nd respondent refused to give its stamp of approval and this Court is in complete agreement with the reasoning given by the 2nd respondent for refusing to grant approval, since, nothing prevented the petitioner corporation from producing the enquiry proceedings more specially when they have chosen to terminate the services of an employee. In this case, it is alleged that the 1st respondent was in a drunken stage while discharging his duty. If it is so, it is a major offence. However, because of the lethargic attitude of the petitioner Corporation in not producing the enquiry proceedings before the 2nd respondent, approval was not granted, since the conditions enumerated in *Lalla ram's* case (supra) were not satisfied and this Court is left with no other option than to confirm the same.

8. Further, it is pertinent to note that, pending Writ petition, the 1st respondent/workman passed away, the legal heirs of the deceased employee are arrayed as respondents 3 to 5. Hence, the petitioner Corporation is directed to settle the entire terminal benefits in favour of the respondents 3 to 5, the legal heirs of the deceased 1st respondent/employee within a period of four weeks



W.P.No.23347 of 2019

from the date of receipt of a copy of this order, failing which, serious view will be taken against the petitioner and it is made clear that the 1st respondent would be entitled for continuity of service for the purpose of calculating the terminal benefits. The respondents 3 to 5, the legal heirs of the deceased 1st respondent/ employee are given liberty to approach this Court if the petitioner fails to comply with the direction of this Court.

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

29.04.2025

skt

Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No

To

1. The Special Deputy Commissioner of Labour,
D.M.S. Compound,
Chennai – 600 006.
2. The Management,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Kancheepuram – 631 552.



WEB COPY



W.P.No.23347 of 2019

M.DHANDAPANI, J.

skt

W.P.No.23347 of 2019
and
WMP.No.23093 of 2019

29.04.2025