



W.P.No.15364 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2025

CORAM

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P. No.15364 of 2022
and W.M.P. No.14514 of 2022

The General Manager,
Tamil Nadu State Transport Corporation (Kovai) Limited,
Erode Region,
Chennimalai Road,
Erode - 1.

... Petitioner

VS.

1. M. Velmani

2. The Special Joint Commissioner of Labour,
DMS Complex,
Chennai.

... Respondents

Prayer: This Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records in A.P.No.136 of 2019 by the second respondent dated 20.11.2021 and quash the same.

For Petitioner : Mr. M. Murali Vinodh

For R1 : Mr. V.S. Jagadeesan



W.P.No.15364 of 2022

WEB COPY

ORDER

This writ petition is filed challenging the order passed by the Approval Authority in A.P.No.136 of 2019 dated 20.11.2021 and to quash the same. Before the Approval Authority, the petitioner Corporation herein had filed an approval petition seeking approval for the dismissal order passed against the first respondent herein in a disciplinary proceedings and the same was dismissed. Aggrieved by the said order, this present writ petition has been filed.

2. The short facts necessary to dispose this writ petition are as follows:

2.1 The first respondent was working as a driver in the writ petitioner Corporation and he was absented himself from duty from 15.07.2012 onwards without any prior permission. Since he was unauthorizedly absent, a charge memo was issued to the first respondent on 25.10.2014 and thereafter, the first respondent sent a reply by requesting 60 days time for submitting his reply



W.P.No.15364 of 2022

towards the charge memo issued to him. On 18.12.2014, a communication was addressed by the first respondent to the General Manager of the petitioner Corporation, requesting to provide certain documents. The main grievance of the first respondent is that he belongs to Gobichettipalayam Taluk and he cannot be transferred to a long distance place namely Palani-II for which, he made representation to the petitioner Management to re-transfer him back to Gobichettipalayam.

2.2 Thereafter on 20.09.2018, the petitioner Management issued letter to the first respondent to report duty, but he did not join the duty. Thereafter on 12.10.2018, the first respondent made a representation stating that, the documents sought by him was not given to him and his employee number was also wrongly mentioned. Thereafter a domestic enquiry was conducted, where the first respondent has not participated in the said enquiry and hence, the second show cause notice was issued based on the findings of the enquiry officer. Thereafter, the first respondent submitted his explanation by requesting to transfer him to the Gobichettipalayam branch depot from the Palani-II branch depot and after considering further representations of the first respondent, the petitioner Management passed the dismissal order as against the first



W.P.No.15364 of 2022

respondent on 26.09.2019. Thereafter the Management filed an approval petition before the second respondent herein in A.P.No.136 of 2019 and the same was dismissed. Aggrieved by the said order, this writ petition has been filed.

3. The learned counsel appearing for the petitioner Corporation would submit that the first respondent was working as a driver in the petitioner Corporation and he was absent from 15.07.2012 onwards without any intimation, thereby the petitioner Corporation issued show cause notice. Thereafter the first respondent did not furnished any explanation and only sought time for 60 days and also requested some documents, which are not relevant to his unauthorised absence. Thereafter, enquiry officer was appointed and the enquiry proceedings were conducted after serving notice to the first respondent, but the first respondent did not appear for the domestic enquiry. After completion of the domestic enquiry, the enquiry officer rendered a finding that the charges against the first respondent were proved and based on the enquiry report, the petitioner Management had issued show cause notice to the first respondent, in respect of awarding punishment. The first respondent also submitted his explanation and being not satisfied with the first



W.P.No.15364 of 2022

WEB COPY

respondent's explanation, the petitioner Management passed an order dismissing the first respondent from service. Simultaneously, an approval petition was filed by the Management before the second respondent in A.P.No.136 of 2019. While so, the Approval Authority erroneously declined to grant approval on the ground that no enquiry proceedings were produced before the Authority, thereby unable to find whether principle of natural justice have been followed and *prima facie* case is made out based on the acceptable evidence. He also submitted that the enquiry proceedings were produced before the Approval Authority, which is also marked as Ex.P.6 on the side of the Management, but without considering the same, the Approval Authority has passed the above said erroneous order. He further submitted that, without prejudice to the right of the writ petitioner, the first respondent was reinstated into the service and he joined the duty recently. Therefore, he prays to quash the order passed by the Approval Authority.

4. The learned counsel appearing for the first respondent would submit that the first respondent was appointed as daily wages driver on 17.07.2007, thereafter on 25.11.2008, his appointment was made permanent, vide order dated 24.07.2009. While so, without any valid reasons, the first



W.P.No.15364 of 2022

WEB COPY

respondent was transferred to Palani-II depot by an order dated 13.07.2012 and due to his family circumstances, he sought for re-transfer back to Gobichettipalayam and further, the first respondent was not allowed to do his duty. In the meantime, the first respondent had received a notice dated 15.07.2016 stating that without any prior permission, he was absented for more than 10 days and the petitioner Management in order to victimise the first respondent, harassed him for the past four years without giving any work to him. In the meantime, the Management had conducted domestic enquiry without serving notice to the first respondent. He also submitted that the basic salary of the first respondent was Rs.5,862/- and after joining the duty in the year 2010, 2013 and 2016, the salary of the first respondent was increased through settlements under Section 12(3) of the Industrial Disputes Act, therefore one month pay was not fully settled to the first respondent and also without following the principle of natural justice, the domestic enquiry was conducted. Thereafter the Approval Authority, after referring to the judgment of the Hon'ble Supreme Court in ***Lall Ram vs. DCM Chemical Works [AIR 1978 SC 1004]*** case had rightly declined to grant approval. The learned counsel for the first respondent would also submit that the first respondent is ready to forego 50% of the back wages, hence prays to dismiss this writ petition.



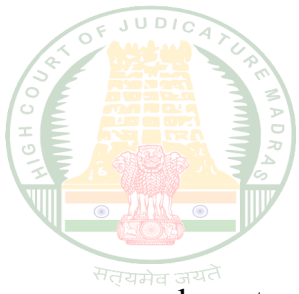
W.P.No.15364 of 2022

WEB COPY

5. This Court heard both sides and perused the records.

6. In this case, it is an admitted fact that the first respondent was absent from the duty without any prior approval of the Authorities concerned. According to the first respondent, he was transferred from Gobichettipalayam depot to Palani-II depot and he gave request for reconsidering of his transfer, thereby he was unable to join duty. According to the petitioner Corporation, the first respondent had refused to join duty to the Palani-II depot even after passing of transfer order to Palani-II depot. Thereafter, they issued charge memo, the first respondent after receipt of the charge memo has not responded immediately and sought 60 days time and subsequently, he sought for certain documents. In spite of several opportunities given to him, he has not participated in the domestic enquiry.

7. This Court also perused the records, the dispute is that the first respondent has not attended duty from 15.07.2012 onwards. The transfer of first respondent from Gobichettipalayam depot to Palani-II depot is also admitted, the first respondent has not joined the duty before the Palani-II

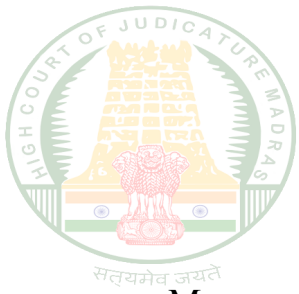


W.P.No.15364 of 2022

WEB COPY

deport, where he was transferred. Therefore the petitioner Management issued charge memo against the first respondent and thereafter conducted the domestic enquiry. In the domestic enquiry, the first respondent did not participate and therefore, the enquiry officer rendered findings that the charges were proved against the first respondent and thereafter, second show cause notice was issued to the first respondent and then passed an order of dismissal from service as against the first respondent. Simultaneously, they have also filed approval petition before the Approval Authority, which was dismissed on the ground that no enquiry proceedings were produced. However in the order of the second respondent itself, the said enquiry proceedings were marked as Ex.P.6, but the Approval Authority without considering the same declined to grant approval.

8. Even the unauthorised absence was admitted by the first respondent, who did not join the duty after being transferred, that too from 2012 onwards, the Approval Authority without considering the documents and evidence placed on record had dismissed the approval petition. Therefore, it is appropriate to set aside the order of the Approval Authority declining to grant approval on the ground of non-production of enquiry proceedings. However, the punishment of dismissal from service awarded by the petitioner



W.P.No.15364 of 2022

Management as against the first respondent is shocking conscious and is gross disproportionate, thereby it is also appropriate to set aside the order passed by the Disciplinary Authority by dismissing the first respondent from service. Therefore the orders passed by the Approval Authority and the Disciplinary Authority are set aside, by invoking the powers under Article 226 of the Constitution of India.

9. It is also admitted that the first respondent was reinstated into service and therefore it is appropriate to remand back the matter to the Disciplinary Authorities concerned for imposing appropriate punishment, except the major punishment of dismissal from service, removing the first respondent from service and compulsory retirement.

10. As far as the back wages are concerned, the first respondent himself has absented from the duty and he has not joined the duty, therefore the period of his absence from the duty can be treated as "no work, no pay" and he is also not entitled to back wages from the date of termination from the service to the reinstatement into service, but he is entitled for continuity of service for the purpose of other terminal benefits.



W.P.No.15364 of 2022

WEB COPY

11. With the above observation, this writ petition stands disposed of.

Consequently, connected writ miscellaneous petition stands closed. There shall be no order as to costs.

18.08.2025

Index : Yes/No

Speaking order/non-speaking order
stn

To

The Special Joint Commissioner of Labour,
DMS Complex,
Chennai.



WEB COPY



W.P.No.15364 of 2022

P.DHANABAL, J.,

stn

**W.P. No.15364 of 2022
and W.M.P. No.14514 of 2022**

18.08.2025