



WEB COPY

WP No. 15945 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

**WP No. 15945 of 2022
and WMP No.15246 of 2022**

1. The Management

Tamil Nadu State Transport corporation
(Kovai Division) Limited, No. 37,
Mettupalayam Road, Coimbatore 640
043

Petitioner(s)

Vs

1. M.Pasumpon

Driver C24835, 42, East Street,
Arampadidevan Patty, Coonoor Post,
Andipatty Taluk, Theni District

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

Respondent(s)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to call for the records in A.P. No. 40 of 2020 on file of the 2nd Respondent dated 03.01.2022 and quash the same.



WEB COPY

WP No. 15945 of 2022



For Petitioner(s): Mr.A.Sundaravadhanan

For Respondent(s): No appearance for R1
Mr.E.P.Senniyangiri
Government Advocate
for R2

ORDER

This writ petition has been filed challenging the order passed by the second respondent in A.P.No.40 of 2020 dated 03.01.2022.

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

The first respondent joined the petitioner Corporation as a daily wages Driver on 07.09.2012. While so, on 24.06.2014 without any prior intimation or prior permission, the first respondent did not report duty for more than 10 days. Therefore, a show cause notice dated 11.07.2014 was issued to him, but no reply was furnished by the first respondent. Thereafter, domestic enquiry was ordered against the first respondent on 29.07.2015 and notice was served on the first respondent. The first respondent attended the enquiry and did not cross-examine the Management witnesses. The Enquiry Officer concluded the enquiry proceedings and submitted his report holding that the charges against the first respondent are proved. The Disciplinary Authority after accepting the enquiry report issued notice calling upon the first respondent to submit his explanations. However, no reply was issued by the first respondent. Thereafter, second show cause notice dated 12.01.2018 was issued and after receipt of the same the first



respondent did not reply. Therefore, the Disciplinary Authority passed an order of dismissal from service as against the first respondent. The petitioner Management filed an Approval Petition before the second respondent in A.P.No.40/2020 and the same was dismissed by the second respondent. Challenging the same, the present writ petition is filed by the petitioner Management.

3. Mr.A.Sundaravadhanan, the learned counsel for the petitioner, would submit that the first respondent was appointed as daily wages Driver on 07.09.2012 and thereafter due to his unauthorized absence, show cause notice was issued and he did not give any reply and thereafter, a charge memo was issued to him and no reply was submitted by him. Thereafter domestic enquiry was conducted whereby the first respondent participated in the enquiry proceedings. After following the legal formalities, the punishment of dismissal from service was imposed against the first respondent. The petitioner filed an Approval Petition before the second respondent for granting approval for the dismissal of the first respondent from service and the same was erroneously rejected by the second respondent. The first respondent has not raised any procedural violations during the enquiry proceedings. The petitioner Management has given sufficient opportunity to the first respondent and he had also participated in the enquiry proceedings. However, the second respondent without considering the same, declined to grant approval on the ground that no enquiry proceedings have been submitted.



3.1 The learned counsel for the petitioner further submitted that the first respondent has not adduced any evidence to prove any victimization. However the second respondent without any evidence declined to grant approval for the dismissal on the ground of victimization. The petitioner followed the principle of natural justice and sufficient opportunity was given to the first respondent. There are *prima facie* evidence available based on the acceptable evidence and there is no victimization on the part of the Management. One month salary was also paid to the first respondent and the Approval Petition was filed simultaneously along with the order of dismissal passed against the first respondent by following the guidelines issued by the Hon'ble Supreme in ***Lalla Ram Vs. DCM Chemical Works, AIR 1978 SC 1004.***

4. Heard the learned counsel for the petitioner and perused the materials available on record.

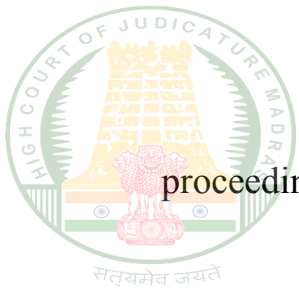
5. There is no dispute in respect of the relationship between the parties as “employer – workman”. According to the petitioner Management, the first respondent was in unauthorized absence and thereby domestic enquiry was conducted and as per the enquiry report the charges were proved and thereafter the order of dismissal from service has been passed. According to the first respondent no opportunity was given to him and due to his health condition he was unable to attend the duty. The first respondent has also submitted his leave application. Without passing orders in the leave application and without giving



any information as to whether the leave was granted or not, the petitioner Management has initiated the proceedings and therefore it cannot be treated as unauthorized absence. Even in the domestic enquiry no opportunity was given to the first respondent and without serving the copy of the enquiry report, the petitioner Management has passed the order of dismissal and therefore it amounts to violation of principles of natural justice.

6. As far as the powers in dealing with the provisions of Section 33 (2)(b) Industrial Disputes Act is concerned, the Hon'ble Supreme Court of India in ***Lall Ram Vs. DCM Chemical Works, AIR 1978 SC 1004*** has framed the guidelines. Based on the guidelines the Approval Authority has to grant approval.

7. The Approval Authority / second respondent, while discussing about the principles of natural justice, observed that based on the enquiry proceedings and the documents only the authority can come to a conclusion about the opportunities given to the first respondent. But the Management failed to produce the enquiry proceedings along with the Approval Petition. No enquiry report has been furnished, however, the Management has only enclosed a Demand Draft of Rs.22,730/- and Form 'D'. In order to ascertain the *prima facie* case based on the acceptable evidence, payment of salary to the first respondent and the allegation of victimization, production of enquiry proceedings is essential. Admittedly, the petitioner Management has not produced the enquiry



proceedings before the approval authority.

WEB COPY

8. On perusal of the records it is seen that the date of the order of dismissal was passed on 15.07.2020 but the Approval Petition was filed on 20.07.2020 and there is a delay in filing the Approval Petition. Accordingly, the petitioner has not fulfilled the guidelines laid down by the Hon'ble Supreme Court of India in the case of ***Lall Ram Vs. DCM Chemical Works, AIR 1978 SC 1004*** and therefore the Approval Authority has come to a conclusion that no sufficient opportunity was given to the first respondent and the principles of natural justice have not been followed and also there are no materials to show that the *prima facie* case has been made out based on the acceptable evidence and there was a victimization and there is a delay in filing the approval petition and thereby declined to grant approval.

9. As far as one month salary is concerned, the petitioner filed a Demand Draft for a sum of Rs.22,730/- but the first respondent claimed that he is entitled to Rs.29,149/- per month. While so it is the duty of the Management to prove that the petitioner's one month salary is Rs.22,730/-. The petitioner management miserably failed to produce the salary certificate to prove the one month salary of the first respondent. Therefore, the second respondent / Approval Authority has rightly rejected the approval petition and the order passed by the second respondent is a well reasoned order and it does not warrant interference.



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

WEB COPY

11. Accordingly this writ petition is dismissed. No costs. Connected miscellaneous petition is closed.

07-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

bkn

To

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



WEB COPY

WP No. 15945 of 2022



P.DHANABAL J.

bkn

WP No. 15945 of 2022

07-07-2025