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W.P No. 24372 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2025

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 24372 of 2022

and

WMP.No.23370 of 2022

Tamil Nadu State Transport Corporation
(Villupuram) Limited
Kancheepuram Region,
Bangalore Highways Road,
Kancheepuram- 631552

..Petitioner

Vs

1. A. Sekaran (deceased)
2.The Special Joint Commissioner of Labour
DMS Compound,
Chennai-600006.

3.Jayalakshmi

4.Kamalaveni

5.Kalaivani

6.Kalyani

7.Shobana

8.Sudhakar

(R3 to R8 are substituted as LRs of deceased
first respondent vide order of this Court
dated 07.07.2025)

..Respondents



W.P No. 24372 of 2022

WEB COPY

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 2nd respondent/Special Joint Commissioner of Labour made in A.P.No.4 of 2018, dated 15.04.2022 and quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947 and pass such further or other orders.

For Petitioner : Ms. Pavithra

For Mr. G.Saravana Kumar

For Respondents : Ms. H. Nandhini

For Mr. R.Krishnaswamy - R1, R3 to R8

Mr.E.Vijay Anand, AGP - R2

ORDER

1. The petitioner challenges the order passed by the second respondent, by which the approval petition filed under Section 33(2)(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”) came to be rejected.

2. The first respondent, while working as a Conductor in the petitioner-Transport Corporation, was issued a charge memo for unauthorized absence, which culminated in an order dismissing the said workman from service. The petitioner-Management thereafter filed an application under Section 33(2)(b) of the Act before the second respondent, seeking approval of the order of dismissal.



W.P No. 24372 of 2022

3. The second respondent, by the impugned order, dismissed the application on the ground that out of the five prerequisites required for obtaining approval, three had not been satisfied. Aggrieved by the same, the present writ petition has been filed.

4. Learned counsel for the petitioner-Corporation submitted that, in the absence of any prejudice caused to the deceased workman, non-fulfilment of certain procedural requirements cannot render the order of the Labour Court legally sustainable. It was further contended that since the charges against the respondent/workman stood proved, the second respondent ought to have approved the order of dismissal.

5. In response, the learned counsel for the respondent submitted that since the petitioner-Management failed to satisfy the mandatory five conditions prescribed by the Hon'ble Supreme Court in *Lalla Ram v. D.C.M. Chemical Works Ltd.* [AIR 1978 SC 1004], the second respondent was fully justified in rejecting the approval petition, and that the impugned order does not warrant any interference.



W.P No. 24372 of 2022

WEB COPY

6. This Court has heard the learned counsel for both parties and perused the materials available on record.

7. It is admitted that the order of dismissal was passed on 09.04.2010, while the approval petition was filed by the petitioner-Management only in November 2018, i.e., after a lapse of eight years and six months from the date of dismissal.

8. The Hon'ble Supreme Court, in *Lalla Ram v. D.C.M. Chemical Works Ltd.* [(1978) AIR 1004], laid down the following principles governing the scope of proceedings under Section 33(2)(b) of the Act:

“12. The position that emerges from the above decisions may be stated thus: In proceedings under Section 33(2)(b) of the Act, the jurisdiction of the Industrial Tribunal is confined to the enquiry as to—

- (i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and the 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;



W.P No. 24372 of 2022

WEB COPY

(iii) whether the employer has arrived at a bona fide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice or victimisation, having regard to the settled principles laid down in judicial precedents;

(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 a reasonably short time applied to the authority before which the main industrial dispute is pending for approval of the action taken.”

9. In view of the aforesaid legal position, it is evident that the petitioner-Management has failed to comply with the mandatory prerequisites laid down by the Hon'ble Supreme Court for obtaining approval under Section 33(2)(b) of the Industrial Disputes Act, 1947. In particular, there has been an inordinate delay of more than eight years in filing the approval petition, which, by itself, vitiates the proceedings. Such an unexplained and prolonged delay has undoubtedly prejudiced the rights of the workman, who remained under a constant state of uncertainty regarding his employment status and was subjected to undue mental agony and hardship.



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W.P No. 24372 of 2022

HEMANT CHANDANGOUDAR, J.

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W.P No. 24372 of 2022

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