



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.20636 of 2022
and WMP.No.19757 of 2022

The Management,
Tamil Nadu State Transport
Corporation (Salem) Limited,
Bharathipuram, Salem Main Road,
Dharmapuri – 636 705.

... Petitioner

Vs

1.T.Kumar

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 10.03.2021 passed by the second respondent in Approval Petition No.489 of 2012 and quash the same, consequently direct the second respondent to approve the order of the petitioner dated 04.07.2012 dismissing the first respondent from service.

For Petitioner : Mr.K.Raja

For Respondents : Mr.N.Desinghu for R1
: Mr.L.S.M. Hasan Fizal AGP for R2



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ORDER

This petition has been filed by the petitioner to quash the order passed by the second respondent in A.P.No.489 of 2012 dated 10.03.2021.

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

The first respondent was working as a driver in the Petitioner Corporation. He was absented duty from 13.06.2011 till 01.08.2011. Therefore, a charge memo was issued against him. After receipt of the charge memo, the first respondent did not submit any reply and a domestic enquiry was conducted. The Enquiry Officer conducted the domestic enquiry and submitted his report on 14.11.2011, stating that the charges against the delinquent were proved. Thereafter, the petitioner corporation issued a show cause notice dated 17.12.2011, and the first respondent also submitted his reply. Not being satisfied with the reply, the respondent management passed the dismissal order dated 04.07.2012 against the first respondent. Thereafter, the petitioner corporation filed a petition under Section 33(2)(B) of the Industrial Disputes Act before the second respondent in A.P.No.489 of 2012 and the same was dismissed.



Challenging the same, the present writ petition has been filed by the petitioner management.

3. The learned counsel appearing for the petitioner would submit that the first respondent was working as a driver in the petitioner corporation and he was absented duty from 13.06.2011 to 01.08.2011. Due to the said misconduct, a charge memo was issued to him and thereafter an enquiry officer was appointed, and a domestic enquiry was conducted. After the domestic enquiry, the punishment of removal from service was awarded to the first respondent. Thereafter, the Approval Petition was filed before the second respondent in A.P.No.489 of 2012 and the same was kept pending for more than 9 years and the second respondent passed the order only on 10.03.2021 by rejecting the approval petition. The second respondent failed to follow the guidelines issued in Judgment of the Hon'ble Supreme Court in **Lalla Ram Vs DCM Chemical Works case** reported in **AIR 1978(C) 1004**, and rendered findings that sufficient opportunity was provided by adopting the principles of natural justice during the domestic enquiry, and there was no victimization, and one month's salary was also paid to the first respondent. However, permission was declined on the grounds that no prima facie case was made out based on acceptable evidence,



and there is a delay in submitting the approval petition and no petition was filed immediately after passing the dismissal order. Therefore, the findings of the second respondent is perverse, and thereby the order passed by the second respondent is liable to be set aside.

4. The learned counsel appearing for the first respondent would submit that the first respondent was working as a conductor in the petitioner corporation. Due to his ill health, the first respondent was unable to attend duty. However, without accepting the explanation submitted by the first respondent, the petitioner proceeded to conduct a domestic enquiry. In the enquiry, he also submitted his written statement that he was unable to appear due to his ill health and that no opportunity was given to the first respondent. He did not even participate in the enquiry proceedings, due to his illness. To that effect, he produced Ex.R1 & R2. Based on the same, the authority came to the conclusion that there was no prima facie case based on the acceptable evidence, and the removal order was passed on 03.07.2012. However, the Approval Petition was filed only on 09.07.2012. Therefore there is a delay. Hence, the Approval Petition was rejected by the competent authority and therefore, the present writ petition is liable to be dismissed.



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

6. There is no dispute in respect of relationship between the parties, and it is also an admitted fact that the first respondent was absented duty from 13.06.2011 to 01.08.2011. According to the first respondent, due to his illness, he was unable to attend duty, and in the enquiry proceedings, he also did not participate due to his illness. In spite of the representation made by the first respondent that he was unable to attend the duty due to illness, the respondent did not consider it. In the disciplinary proceedings also the 1st respondent was set ex-parte due to his absence, on the ground of illness. The dismissal order was passed on 03.07.2012, and the application was filed on 09.07.2012, and there is a delay in filing the approval petition. The Approval Authority in the order elaborately discussed the case and came to a fair conclusion. Even though the petitioner filed an application in the year 2012 but the order was passed in the year 2021, and no steps have been taken by the petitioner to dispose of the petition by filing the appropriate application before the authority and there is a delay in passing orders. On perusal of records, no prima facie case was made out based on



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the acceptable evidence in the enquiry proceedings. More over there is a delay in filing approval petition. As rightly pointed out by the approval Authority, there was no prima facie material based on the acceptable evidence in the enquiry proceedings, and there is a delay in sending the approval petition before the Approval Authority. The approval petition was not signed immediately after passing orders of dismissal from service. Therefore, the order passed by the approval authority is in order and it does not warrant any interference.

7. In view of the above said discussions, this Court is of the opinion that this petition has no merits and deserves to be dismissed. According, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.06.2025

drl

To

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



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P.DHANABAL, J.,

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