



W.P.No.20780 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **29.07.2025**

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THE HONOURABLE MR.JUSTICE **P.DHANABAL**

W.P.No.20780 of 2022
and W.M.P.No.19852 of 2022

The Management,
Tamilnadu State Transport
Corporation (Kumbakonam) Limited,
Karur Region, Karur.

.... Petitioner

Vs

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

.... Respondents

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 16.11.2021 passed by the second respondent in Approval petition No.77 of 2020 and quash the same, consequently direct the second respondent to approve the order of the petitioner dated 31.07.2020 dismissing the first respondent from service.

For Petitioner : Mr.M.Murali Vinodh



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For R1 : Mr.R.Abdul Mubeen
For R2 : Mr.E.P.Senniyangiri
Government Advocate

ORDER

This writ petition has been filed to quash the order passed by the 2nd respondent in A.P.No.77 of 2020 dated 16.11.2021.

2. The 1st respondent was working as a conductor in the petitioner corporation. He was absent for duty from 21.09.2016 to 25.03.2019; again from 26.03.2019 to 02.04.2019. Consequently, the petitioner Corporation issued a charge memo dated 05.04.2019. The said charge memo was served through Registered Post and acknowledged by the respondent, but no explanation was filed by the respondent.

3. Thereafter, the management conducted a domestic enquiry. Notices were served on the respondent in respect of the enquiry dates several times, but he did not appear. Therefore, the enquiry proceeded ex-parte.

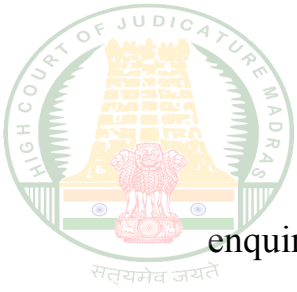


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4. The enquiry officer rendered his findings that the charges against the delinquent were proved. Following this, the management issued a 2nd show cause notice on 29.11.2019 in respect of punishment. Even after receipt of the same, the 1st respondent did not submit a reply.

5. Consequently, the management passed a dismissal order on 31.07.2020. Along with the dismissal order, a cheque for Rs.22,714/-was sent as one month salary. Thereafter the petitioner corporation filed an Approval petition under section 33(2)(b) of Industrial Dispute Act before the 2nd respondent, which was dismissed. Aggrieved by the said order, the present writ petition has been filed by the management.

6. The learned counsel for the petitioner would submit that the respondent who was working as a conductor in the petitioner corporation was unauthorizedly absent from 21.09.2006 to 02.04.2019. Consequently a charge memo was issued to him and it was served through registered post and acknowledged by the respondent. However, he failed to file any explanation. Thereafter, a domestic enquiry was conducted and the same was posted on various dates by serving notices intimating him about the enquiry dates. Despite receipt of the notices, he did not appear. Thus, the



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enquiry officer conducted an ex-parte enquiry and subsequently rendered findings that charges were proved. The petitioner management then issued a 2nd show cause notice, but again, the respondent failed to file any explanation after receiving it. Therefore, the management passed a dismissal order dated 31.07.2020, which was served along with a cheque for Rs.22,714/- as one month salary. Subsequently, the petitioner corporation filed a petition before the 2nd respondent under section 33(2)(b) of the Industrial Dispute Act and the same was erroneously dismissed without adhering to the guidelines of the Hon'ble Supreme Court in the case of Lall Ram. Therefore, the order passed by the Labour Court is liable to be quashed.

7. The learned counsel for the 1st respondent would submit that while the respondent was working as a conductor in the petitioner management on 08.02.2016, the respondent was affected with chest pain and was admitted to Appollo Hospital and discharged from hospital on 16.02.2016. Subsequently, he was treated as an out patient and was unable to continue his duties as a conductor. He approached the Musiri Branch Manager, General Manager, Managing Director, explaining his



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health condition and requesting an alternative job. However, his request

was not considered.

8. The learned counsel for the respondent would further contend that further, no notices were served to him for the domestic enquiry, and the enquiry was conducted without following the principles of natural justice. No prima facie case was proved based on acceptable evidence. Therefore, the approval authority correctly declined to grant approval. Thus, the writ petition is liable to be dismissed.

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

10. In this case, there is no dispute between the relationship of the parties as employer and workman. According to the petitioner, the respondent was unauthorizedly absent and thereby the corporation issued a charge memo and the workman did not offer his explanation. Subsequently, a domestic enquiry was conducted, where the respondent has not proceeded with the enquiry and the disciplinary authority then awarded the punishment of dismissal from service.

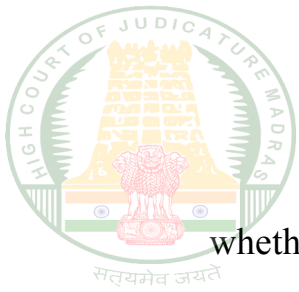


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WEB COPY 11. According to the respondent, due to his health condition, he was unable to attend duty and the same was informed to the petitioner management. However, without considering his request, they conducted a domestic enquiry in his absence, without adhering to the principles of natural justice.

12. Therefore from the above, it is clear that the respondent was absent for duty from 21.09.2016 to 02.04.2019. The respondent did not appear before the enquiry officer. But the enquiry proceedings were concluded ex-parte. Based on the enquiry report, the management awarded the punishment of dismissal from service.

13. Subsequently, the petitioner management filed an approval petition before the authority. The authority observed that no enquiry proceedings were furnished before the approval authority. The authority further held that only based upon the enquiry proceedings, it can come to the conclusion as to (i) whether the management has afforded an opportunity to the respondent or not to put forth his defence and (ii)



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whether a prima face case has been made out based on the acceptable evidence and (iii) whether any victimization had occurred.

14. Despite chances given to the petitioner management, they failed to produce the enquiry proceedings. Therefore, approval was declined. The petitioner also admitted that they did not furnish the enquiry proceedings, however, it has been stated that they furnished enquiry notices served to the respondent through registered post and the same was acknowledged by the respondent.

15. As rightly pointed out by the approval authority, without the production of enquiry proceedings, the authority cannot form opinion regarding adhering to the principles of natural justice, prima facie evidence or potential victimization.

16. Further, according to the respondent his health was affected and he approached the authorities for alternative employment, but the said request was not considered favourably. In the mean time, domestic enquiry was also conducted and awarded punishment of dismissal with



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findings that his unauthorized absent period can be treated as leave loss of pay, which shows victimization. Therefore, the approval authority rightly declined to grant approval for the punishment of dismissal awarded by the petitioner management.

17. Therefore, the rejection of approval passed by the approval authority is in order and the same does not warrant interference. Therefore, this writ petition has no merits and deserves to be dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.07.2025

Index : Yes/No
Neutral citation : Yes/No
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To
The Special Joint Commissioner of Labour
DMS Campus, Anna Salai, Chennai.



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P.DHANABAL,J.

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