



W.P.No.20801 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.03.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.20801 of 2023

K.Krishnamurthy

...Petitioner

Vs.

1. The Managing Director

Tamilnadu State Transport Corporation (Salem) Ltd.,
No.12, Ramakrishnan Salai, Salem – 636 007

2. The General Manager,

Tamilnadu State Transport Corporation (Salem) Ltd.,
Dharmapuri Zone, Salem Main Road,
Bharathipuram, Dharmapuri – 636 705

3. The Special Joint Commissioner of Labour,
Chennai – 600 006

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 and 2 herein to forthwith implement the order passed by the 3rd respondent in A.P.No.76/2021 dated 19.04.2022 under Section 33(2)(b) of the Industrial Dispute Act, 1947 by reinstating the petitioner in service with continuity of service with all monetary benefits and back wages etc.,

For Petitioner : Mr.R.Thamaraiselvan

For Respondents : Mr.K.Raja for R1 & R2
Mr.T.M.Rajangam for R3
Government Advocate



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ORDER

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The petitioner has filed this Writ Petition seeking for an issuance of a Writ of Mandamus directing the respondents 1 and 2 herein to forthwith implement the order passed by the 3rd respondent in A.P.No.76/2021 dated 19.04.2022 under Section 33(2)(b) of the Industrial Dispute Act, 1947 by reinstating the petitioner in service with continuity of service with all monetary benefits and back wages etc.,

2. The brief facts of the case, as averred by the petitioner, are as follows:-

(i) The petitioner was initially appointed as Driver on daily wage basis in Annai Sathya Transport Corporation Ltd., Dharmapuri on 13.02.1997 and the petitioner's service was regularised in regular time scale of pay by the 2nd respondent with effect from 01.01.1998. After a lapse of more than 23 years of initial appointment, the 2nd respondent by proceedings dated 27.10.2020 initiated disciplinary proceedings against the petitioner alleging production of bogus educational qualification certificate at the time of initial appointment, as if the petitioner had studied 9th Standard in Government High school, Arasampatty.

(ii) The petitioner was called upon to explain within four days as to why disciplinary action should not be taken against the petitioner. The petitioner



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sought for extension of time, however the 2nd respondent appointed enquiry officer by proceedings dated 17.11.2020 and the petitioner has also submitted the explanation on 17.11.2020 denying the charges. The enquiry officer conducted enquiry on 16.12.2020 and submitted his enquiry report on the very next day, i.e., 17.12.2020, rendering findings that the charge had been proved. The said report was accepted by the 2nd respondent and show cause notice dated 21.01.2021 was issued to show cause as to why 'dismissal from service' should not be initiated for the proven misconduct.

(iii) The petitioner submitted detailed explanation dated 26.01.2021 to issue summons to the complainant, namely, Amsaveni, Educational officer, who declared that the educational certificate as bogus, as witnesses but this legitimate request was rejected on 24.02.2021 by the 2nd respondent confirming the penalty of 'Dismissal from Service'. The said order was sent for approval to the 3rd respondent and the 2nd respondent filed a petition in A.P.No.76 of 2021. The petitioner filed a counter statement in the said proceedings that there has been inordinate and unexplained delay of 23 years on initiating disciplinary proceedings. The 3rd respondent passed an order declining to grant approval. Thereafter, the petitioner made representation dated 22.04.2022 to the respondents 1 and 2 seeking to reinstate the petitioner with continuity of service



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and back wages etc., however, the same has not been implemented, hence this petition.

3. The learned counsel for the petitioner would submit that if the Management has any doubt in the genuineness of the educational qualification certificate produced by the petitioner, the same should have been verified with a reasonable period of the initial appointment but not at such a distance of time, i.e., more than 23 years. Further, the 2nd respondent has not challenged the order of rejection of approval passed by the 3rd respondent dated 19.04.2022 by way of Appeal or Writ Petition in the manner known to law, thereby pleaded to reinstate the petitioner into service by allowing the Writ Petition.

4. Per contra, the learned Government advocate appearing for the respondents would contend that the corporation after going through the available records and considering the past conduct had constrained to issue show cause notices and the petitioner had sent a reply, since the reply was not satisfactory, the petitioner was issued with the punishment of dismissal.

5. Further, the learned counsel appearing for the respondents submits that the 3rd respondent issued notice to the petitioner, who on receipt of the notice appeared before the 3rd respondent and filed his counter to the approval petition



and the 3rd respondent based on the Judgment of the **Hon'ble Supreme Court** in **Lalla Ram Vs. DCM Chennai Chemical Works** case reported in AIR 1978

(C) 1004 had framed the following issues:

“(i) Whether a proper domestic enquiry in accordance with the relevant rules / standing orders and principle of natural justice has been held?

“(ii) Whether a prima facie case has been established in the domestic enquiry based on the legally acceptable evidence?

“(iii) Whether the employer had come to a bonafide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice?

“(iv) Whether the employer has paid or offered to pay wages for one month to the employee?

“(v) Whether the employer has simultaneously or within such reasonably short time as to form part of the same transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him?”

6. Also, the learned Government Advocate appearing for the respondents contends that the authority came to a wrong conclusion that the dismissal order is a revenge activity. The authority ought to have allowed the approval petition and ought to have approved the decision taken by the respondent -Corporation, as it is very well known to the authority that creating the bogus certificate and



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joining a Government undertaking, is a grave misconduct. Further, the respondent-Corporation has filed a Writ Petition No.28922 of 2023 challenging the order passed in the Approval Petition No.76 of 2021 before this Court and same is still pending.

7. Heard the learned counsel on either side and perused the documents placed on record carefully.

8. It is to be noted that the 3rd respondent while disposing of the A.P.No.76 of 2021 held that sufficient opportunity has not been given to the petitioner and charges against the petitioner are not proved with the prima facie evidence. The 3rd respondent further held that it is unfair labour practice adopted by the respondent-corporation and the order of dismissal is a revenge activity.

9. Besides the above, on going through the averments as well as the documents produced by the petitioner as well as the respondents it is seen that the respondents has produced certain details, viz., indicating date and number of the Transfer certificate, 33/84-85 and Enrollment number as 3585 and on verification, the Headmaster, Muthamizh Government Hr.Sec.school, Arasampatti, on comparison of the said details with that of the original documents available in the School, indicated that the documents alleged to be submitted by



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the petitioner is a bogus one, hence this Court is of the view that the petitioner was not provided with an opportunity to putforth his case.

10. In light of the above, the matter is remanded back to the respondents 1 and 2 and a competent officer from the Salem Zone shall be appointed as an Enquiry Officer for conducting enquiry and the said enquiry officer shall conduct enquiry by following the procedure laid down under law and by adhering to the principles of natural justice and pass appropriate orders on or before 02.06.2025. The petitioner as well as the authorities are at liberty to produce the necessary documents to substantiate their claim before the enquiry officer.

In the result, the Writ Petition is disposed of. No costs.

18.03.2025

Index : Yes / No; Internet : Yes / No
Speaking Order / Non Speaking Order
ssd
To

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V.BHAVANI SUBBAROYAN, J.

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