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W.P. No.24765 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P. No.24765 of 2025
and WMP.No.27907 of 2025

The Management
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited
Nagapattinam Region
140, Public Office Road
Velipalayam
Nagapattinam – 611 001. ... Petitioner

Vs.

1.P.Rajinikanth
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 in the nature of Certiorarified Mandamus, calling for the records pertaining to the order dated 13.08.2024 passed by the second respondent in Approval Petition No.33 of 2023 and quash the same, consequently direct the second respondent to approve the order of the petitioner dated 20.03.2023 dismissing the first respondent from service.



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For Petitioner : Ms.pavithra
For Respondents : Mrs.M.Jayanthy
Additional Government Pleader for R2

ORDER

Challenging the order of the second respondent dated 21.08.2024, dismissing the approval petition in A.P.No.33 of 2023, the petitioner-Corporation is before this Court.

2. The facts that led to the filing of the writ petition are as follows:

- a) The first respondent was appointed as Conductor in the the petitioner-Corporation on 20.06.2010. He remained absent for duty from 21.12.2020 to 20.06.2021, without submitting his leave letter. As per the Standing Orders, unauthorised leave is a serious misconduct and therefore, the petitioner-Corporation issued charged memos to the first respondent-workman on 25.05.2021 and 09.07.2021. However, no reply was given by the first respondent.
- b) Therefore, the Management decided to conduct a domestic enquiry



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against the workman and an Enquiry Officer was appointed. The workman appeared for the enquiry held on 15.09.2021. The workman did not chose to cross-examine the Management witnesses and the enquiry procedures were completed. The Enquiry Officer submitted his report holding that the first respondent was found guilty of the charges. A copy of the enquiry report was forwarded to the first respondent, to which, the first respondent had submitted his reply.

c) Thereafter, based on the reply of the workman, enquiry officer's findings and considering the workman's previous records, the petitioner-Management issued a second show cause notice on 29.03.2023 with a proposed punishment of dismissal, to which, the workman had submitted his reply. However, the petitioner-Management was not satisfied with the reply submitted by the workman and the Management was constrained to pass an order of dismissal on 31.05.2023. This was communicated to the first respondent-workman enclosing a cheque for a sum of Rs.25,455/- towards payment of one month salary.

d) The petitioner Management filed a petition under Section 33(2)(b)



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of the Industrial Disputes Act, before the Special Joint Commissioner of Labour, the second respondent herein, seeking approval for the dismissal order. This was taken on file in A.P.No.33 of 2023. Notice in approval petition was served on the respondent-workman and he had also filed his counter.

- e) After hearing both sides, the second respondent passed an order on 21.08.2024, declining to grant approval to the order of dismissal and accordingly, A.P.No.33 of 2023 was dismissed. The learned Judge had held that the domestic enquiry was not conducted in a proper manner and the charges against the workman are not proved with *prima facie* evidence, which is an unfair labour practice adopted by the Management.

Aggrieved by the order of the second respondent in approval petition, the petitioner-Management is before this Court.

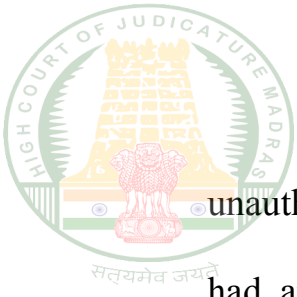
3.1 The learned counsel appearing for the petitioner-Management would submit that the second respondent ought to have approved the decision taken by the petitioner-Management that the unauthorised absence of the first respondent is a serious misconduct which had caused major



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operational problems in the petitioner-establishment. But without considering the same, the second respondent had stretched the case on sympathetic consideration and rejected the approval petition. That apart, the second respondent had failed to note that despite sufficient opportunity given to the first respondent, he failed to produce the proper medical records to prove valid reasons for his absence. Therefore the reason and the basis for dismissing the approval petition is faulty and perverse, and hence, the same has to be set aside.

3. It is also brought to the notice of the Court by the learned counsel appearing for the petitioner-Management that during the year 2017-2018, the respondent-workman had submitted a representation to the petitioner-Management to provide an alternate employment, on account of his cervical ailment. Subsequently the petitioner was required to appear before the Medical Board, Rajiv Gandhi Medical Hospital, Chennai, on 12.04.2019, for medical examination and the report submitted by the medical board dated 22.04.2019 states that the workman is fit for duty. Accordingly, the petitioner-Management sent a letter dated 07.05.2019 to the first respondent to report duty. But the respondent was stated to have remained absent



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unauthorisedly. Thereafter, in the year 2021, the first respondent-workman had approached the Madurai Bench of this Court and filed W.P.(MD) No.22837/2021 to provide an alternate employment in the petitioner-Corporation. Pending the writ proceedings, the Court had impleaded the Madurai Rajiv Gandhi Hospital as a party-respondent and issued a direction to the Dean of the Madurai Rajiv Gandhi Hospital to conduct medical examination of the first respondent-workman, to ascertain his fitness to work as a Conductor. The medical examination was conducted and medical report was submitted before the Court. Ultimately, his prayer in the said W.P. came to be dismissed.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the second respondent. There is no representation on behalf of the first respondent-workman.

5. The fact that the principles of natural justice has been flouted by the petitioner-Management is amply evident from the fact that the domestic enquiry has been held and concluded within a day. Therefore, the respondent workman has not been given adequate opportunity to put



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forward his case by examining the witnesses on his side. The learned counsel for the petitioner-Management would place great reliance upon the letter given by the workman wherein he had admitted his misconduct. She would also place reliance on the admission by the workman itself that he had not attended the work. However, the first respondent-workman in his cross-examination has given the reasons as to why he was not in a position to attend the work. It is his contention that the medical board, which had examined him, had opined that the petitioner cannot continue as a conductor and the petitioner's request to offer an alternate employment had not been considered. Therefore, on account of his physical inability, he was not in a position to attend the work. The fact that these factors could not be presented by the petitioner-Corporation is because of the lightening speed with which the domestic enquiry has been conducted by them, and it clearly shows that the principles of natural justice has been flouted. The second respondent had also held that the petitioner has not proved a *prima facie* case. Further, exercising jurisdiction under Article 226, this Court does not intend to re-appreciate the evidence.

6. Therefore, I see no reasons to interfere with the order of the Special



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Joint Commissioner of Labour dated 21.08.2024 in A.P.No.33 of 2023.

Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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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.T. ASHA, J.

ds

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