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W.P.No.23638 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.23638 of 2022

C.Arivalagan

... Petitioner

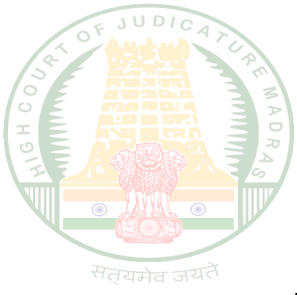
Vs.

The Management of Tamilnadu Transport
Corporation (Salem) Ltd.,
Dharmapuri Division
Bharathipuram, Salem Main Road,
Dharmapuri – 5.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to Award dated 30.08.2019 in ID.No.32 of 2013 passed by the Labour Court, Salem, to quash the same and to issue consequential directions to the respondent herein to reinstate the petitioner in service with consequential benefits of continuity of service, back wages, etc.,

For Petitioner	:	Mr.R.Thamaraiselvan
For Respondent	:	M/s.Anand Gopalan for Mr.K.Raja Standing Counsel



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ORDER

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This writ petition has been filed challenging the order passed by the Labour Court, Salem in I.D.No.32 of 2013. Before the Labour Court, the writ petitioner has raised an industrial dispute alleging that he joined service of the respondent on 26.07.2007 as driver and thereafter he was dismissed from service on 12.10.2012 with the charge of submitting fake mark sheet at the time of joining service. The Transport Corporation issued a charge memo dated 29.02.2012 for submitting fake marksheet at the time of joining of the service and the same was replied by the petitioner on 19.09.2012. Being not satisfied with the explanation, domestic enquiry was conducted and the enquiry officer rendered findings that charges against the petitioner were proved. Thereafter, the Management issued second show cause notice and it has passed an order by dismissing the petitioner from service.

2. According to the petitioner, he has not received any report from the handwriting expert for correction of mark sheet and the letter dated

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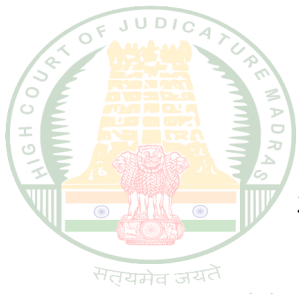


23.02.2012 was not produced. The entire domestic enquiry was conducted

based on the vague charges and without following the principles of natural justice. Therefore, he raised an industrial dispute before the Labour Court.

3. According to the respondent, the petitioner submitted his 10th Standard marksheet and the same was found as bogus one. As per the mark sheet produced at the time of selection, the petitioner obtained 40 marks in English Language whereas, in the original mark sheet he secured only 20 marks. Therefore, he produced fake mark sheet and thereby they issued a charge memo and conducted departmental enquiry and thereafter, imposed punishment of dismissal from service.

4. Before the Labour Court, the parties have examined witnesses and also marked documents. Thereafter, the Labour Court dismissed the dispute raised by the petitioner and confirmed the punishment awarded to the petitioner. Aggrieved by the said order, the present writ petition has been filed.



5. Learned counsel appearing for the petitioner would submit that the

petitioner was appointed as Trainee Driver on 26.07.2007 in the Dharmapuri Division of State Transport Corporation (Salem) Ltd., Dharmapuri, through Employment Exchange and thereafter appointed as driver on daily wage basis on 25.01.2008. While so, the Management issued a charge memo dated 29.02.2012 alleging that he had produced bogus marksheet at the time of his initial appointment. He has also submitted his explanation. In spite of the same, they conducted ex parte enquiry and the management awarded punishment of dismissal from service. Before awarding punishment, they issued a show cause notice and the same was suitably replied by the petitioner. Without considering the same, they awarded punishment of dismissal from service. Therefore, the enquiry has not been conducted by following the principles of natural justice and the copy of the letters which were received from the Joint Directorate and Secretary and Directorate of Government Examination Board were not furnished to the petitioner. The Joint Director of School Examination who issued mark sheet was not

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examined as witness to ascertain the genuineness of the marksheet, and the

same is fatal to the proceedings. However the Labour Court failed to consider the above said aspect and erroneously dismissed the industrial dispute. In the dismissal order, the respondent referred that the petition under Section 33 (b) (2) was filed before the approval authority and paid cheque towards one month salary and without filing such an application, the dismissal is not valid in the eye of law and hence the petitioner is deemed to be in service.

6. Learned counsel appearing for the petitioner has relied on the following Judgments:

1. *R. Venkatesan Vs. The Superintending Engineer, Kanchipuram Electricity Distribution Circle, (TANGEDCO) Kanchipuram, in W.P.No.6746 of 2021 in order dt 04.07.2022;*

2. *W.P.No.12445 of 2010 - The Management TNSTC (Villupuram) Lt., Vs.The Joint Commissioner of Labour (Conciliation), order dated 29.08.2024*

7. The learned counsel appearing for the respondent would submit that the petitioner produced a bogus certificate at the time of his appointment as

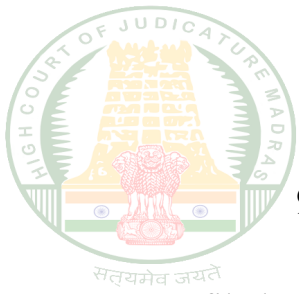
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driver and thereby a charge memo was issued to him and thereafter, they conducted domestic enquiry by giving opportunity to the petitioner and by following the principles of natural justice. The disciplinary authority after issuing notice to the petitioner, awarded punishment of dismissal from service. Though the respondent has not filed approval petition, the petitioner has not raised any objection in that regard before the Labour Court and he forego the same. The petitioner without waiting for the approval petition, he straightaway approached the labour court challenging the order of dismissal from service. At this stage, he cannot raise the point in respect of approval petition and the said stage was already crossed. Since the petitioner has issued bogus certificate and got appointment order, the punishment of dismissal from service is an appropriate punishment. Therefore, the Labour Court has correctly dismissed the petition.

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



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9. The first point raised by the petitioner is that the respondent has not filed any approval petition before the approval authority and without filing the said application, the order of dismissal from service cannot be given effect. In this context, the respondent also admitted that they ought to have filed application under Section 33 (2) (b) of the Industrial Dispute Act.

10. However according to the respondent, the said issue has not been raised before the labour court and the petitioner himself has raised the industrial dispute challenging the termination order by waiving his right to take plea of non- filing of approval petition and the said stage was crossed.

11. As rightly pointed out by the learned counsel for the respondent, the petitioner has not raised any such a plea before the labour court and he straightaway approached the labour court without waiting for the result of the approval petition and thereby waived his right and the said stage was already crossed and at this stage, the petitioner cannot take such a plea. Moreover,

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the respondent also examined the witnessess before the labour court to prove the charges and thereby the said contention of the learned counsel for the petitioner cannot be accepted at this stage.

12. Learned counsel appearing for the respondent has relied on the following judgments :-

1. *LIC of India Vs. R. Dhandapani* (2006) 13 SCC 613
2. *Managing Director North East Karnataka Road Transport Corporation Vs. Shivasharanappa* 2017 (6) SCC 540
3. *Indian Oil Corporation Limited Vs. Rajendra D. Harmalkar* (2022) 17 SCC 361
4. *G.Periyasamy Vs. The Management, T.N.S.T.C. (Salem) Ltd., W.P.No.19707 of 2022.*

13. From the careful perusal of the above said judgments, it is clear that it is not necessary to go in detail regarding the power exercisable u/s 11(1) of the Act, and power under Section 11(a) has to be exercised judicially and the industrial Tribunal or Labour Court as the case may be is expected to interfere with the decision of the Management u/s.11(a) of the I.D.Act only



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if it is not satisfied with the punishment imposed by the Management is wholly and shockingly disproportionate to the degree of guilt of workman commission. Also it is clear that the High Court cannot interfere with the punishment, simply on the ground that the procedures u/s 33(2)(b) of the Act had not been complied with and prior approval had not been taken, in such a situation, the High Court ought not to have interfered with the punishment imposed without considering the findings of the labour court on the grievance of the charges brought against the workman.

14. Even as per the evidence adduced before the labour court. As per the evidence of RW1 and RW2, the mark sheet produced by the petitioner at the time of securing job is not genuine. However, there is no evidence to state that the document was forged by the petitioner.

15. Before the labour court R1 & R2 have categorically deposed about the certificate that the certificate produced by the petitioner is not an original

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one. However, there is no evidence to prove that the petitioner only forged the said document. The petitioner was appointed in the year 2007 and the proceedings were initiated in the year 2012. At the time of appointment itself, the authorities ought to have verified the genuinity of the certificate. But after five years, they initiated the proceedings against the petitioner.

16. The learned counsel appearing for the petitioner relied on the Judgments in the case '*The Management TNSTC (Villupuram) Lt., Vs. The Joint Commissioner of Labour (Conciliation), order dated 29.08.2024*' pertaining to the proceedings u/s 33(2) (b). Where as in this case, no proceedings under Section 33 (2) (b) was initiated. As far as the judgment of *R. Venkatesan Vs. The Superintending Engineer, Kanchipuram Electricity Distribution Circle, (TANGEDCO) Kanchipuram, in W.P.No.6746 of 2021*, is concerned, this court in similar circumstances, for production of bogus certificate for educational qualification held that for producing the bogus certificate, imposing of major punishment of dismissal from service is not

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needed, but it should be imposed with lighter penalty.

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17. In this case also, disciplinary authority has awarded punishment of dismissal from service for the charges of productin of bogus certificate. In the case on hand also, though the Management has failed to sought for approval under Section 33 (2) (b) of the I.D.Act before the Labour Court, they examined the witnessess and the Labour Court tested the correctness of the charges brought against the workman. However, the punishment awarded to the workman is too harsh and shocking disproportionate. Therefore, this court is inclined to modify the punishment awarded as against the workman.

18. The Labour Court, failed to consider the said aspects as stated above and dismissed the petition, hence the order passed by the Labour Curt is liable to be set aside.

19. Therefore, the punishment awarded by the authority is

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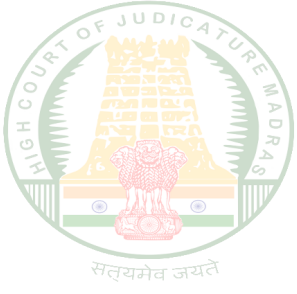
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disproportionate and this court is inclined to modify the punishment of dismissal from service into reduction in the time scale of pay to the next level from the present scale of pay to next lower scale of pay for a period of two years. The petitioner is entitled to continuity of service from the date of termination to till the reinstatement. However, the petitioner is not entitled to any backwages and he shall be reinstated into service within one month from the date of receipt of copy of this order.

20. With the above direction, this Writ Petition is partly allowed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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P.DHANABAL.,J

gv

To:
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Dharmapuri – 5.

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