



W.P.No.16417 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

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The Management,
Formerly Cholan Roadways Corporation Ltd,
Railway Station New Road
Kumbakonam – 612 001
Now Tamilnadu State Transport Corporation
(Kumbakonam) Limited, Kumbakonam
Represented by its General Manager

...Petitioner

Vs.

1. The Presiding Officer,
Industrial Tribunal,
Chennai 600 104.

2. T.C.Paulraj

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 1st Respondent in Complaint No.3 of 1987 dated 12.04.2006 and quash the same.

For Petitioner : No Appearance

For R1 : Court

For R2 : Mr.V.Ajoy Khose



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ORDER

WEB COPY At the outset, this Court expresses its displeasure in the manner in which this writ petition has been conducted by the petitioner. The petitioner is State Transport Corporation, with fleet of authorities. Still the matter was unrepresented on couple of occasions in the year 2018 resulting in dismissal of the writ petition for non-prosecution on 12.07.2018. Even thereafter, the Corporation was not vigilant in getting the writ petition restored in time. They allowed a huge delay of 180 days to accumulate then filed a miscellaneous petition to condone the delay. For the reasons stated in the affidavit filed in support of the petition the delay was condoned.

2. W.M.P.No.12605 of 2025 filed to set aside the order of dismissal passed on 12.07.2018 is allowed and the writ petition is restored to file.

3. The Transport Corporation has filed the present writ petition aggrieved by the order passed by the first respondent in complaint No.3 of 1987 dated 12.04.2006.



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4. The brief facts are that the second respondent herein was employed with the petitioner Corporation as a driver since 1981. It is the case of the petitioner that the second respondent absented him in duty for two spells during May and June 1996 without obtaining prior permission. Even thereafter he absented continuously without any intimation. Therefore, the second respondent was charge sheeted and the charge memo was issued to him. After following the formality, the second respondent was dismissed from service by order dated 15.11.1996.

5. Praying to reinstate him with continuity of service, the second respondent had filed Complaint No.3 of 1987 before the first respondent. The first respondent on an analysis of the available evidence both in the form of oral and documentary held that the order of dismissal was bad in law and directed the petitioner to reinstate the second respondent in service. Challenging the same, the present writ petition has been filed.

6. The learned counsel for the petitioner assailed the order of the Labour Court mainly on the ground that the Tribunal had allowed the claim of the second respondent only on the ground that approval petition was not filed by the petitioner and provisions of Section 33 2(B) of the



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Industrial Disputes Act, 1947 was not followed. The learned counsel therefore submitted that the order of the Tribunal needs interference and the impugned order may be set aside.

7. As rightly pointed out by the learned counsel for the second respondent the claim of the petitioner that the order of dismissal was not passed during the pendency of 12(3) Settlement is falsified by the letter dated 28.04.1997 marked as W.1 before the Tribunal. The said letter is from Under Secretary of Government to Government Press. In the said letter it is mentioned that award in I.Dl.No.62 of 1982 dated 06.03.1997 was passed which clearly proved that during the pendency of industrial dispute the order of dismissal has been passed on 15.11.1996. Moreover, the petitioner has categorically admitted that no approval petition has been filed under Section 33 2(B) of the Industrial Disputes Act, 1947. Indeed the petitioner had even justified the non-filing of the approval petition stating that the second respondent was removed from service for his long absence and therefore no approval is necessary. This stand of the petitioner is totally unacceptable.

8. Whatever be the charge framed against the delinquent when



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once the order of termination / dismissal is passed, the authority is duty bound to file an approval petition under Section 33 2(B) of the Industrial Disputes Act, 1947 and seek approval of the Tribunal. Failure to adhere to the provisions of Section 33 2(B) of the Industrial Disputes Act is fatal to the case of the Transport Corporation. For that sole reason this Court is inclined to confirm the award passed by the Labour Court. In the result the writ petition stand dismissed.

9. However, this Court taking note of the fact that the second respondent was appointed in the year 1981 and almost 44 years has lapsed since then it is doubtful whether he would still be in service. The second respondent remains unrepresented therefore the question of reinstatement is left open. If the second respondent reached the age of superannuation the petitioner Corporation is directed to settle the terminal benefits within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

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Speaking Order : Yes/ No

NCC : Yes/ No

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The Presiding Officer,
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Chennai 600 104.

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