



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-06-2025

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP No. 24385 of 2022

AND

WMP NO. 23389 OF 2022

The Management,
Tamil Nadu State Transport Corporation
(VPM) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangalore High Ways,
Kancheepuram 631 552.

Petitioner(s)

Vs.

The Special Joint Commissioner of
Labour,
D.M.S. Campus, Chennai.

2.C.Nagappan
Conductor No. 61512,
S/o. Chinnakannu,
No.29, Kuselar Street,
Paramasivam Nagar, Thirukazhukundram,
Kanchipuram District

Respondent(s)

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for



issuance of a Writ of Certiorari, to call for the records relating to the order passed by the 1st Respondent, the Special Joint Commissioner for Labour, Chennai, dated 12.09.2017 made in A.P. No. 565 of 2011 and quash the same.

For Petitioner(s): Mr.M.Aswin

For Respondent(s): M/s. S.Ravi

For R2

MR.L.S.M. Hasan Fizal,

Additional Government Pleader

For R1

ORDER

This Writ Petition has been filed by the petitioner seeking to quash the order dated 12.09.2017 passed by the first respondent, the Special Joint Commissioner of Labour, Chennai in A.P. No. 565 of 2011.

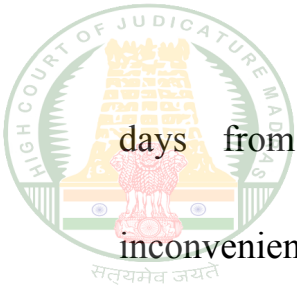
2. The brief facts are as follows:

The 2nd respondent was working as a Conductor in the petitioner Corporation, and he failed to report duty from 23.12.2007 to 05.01.2008. For the above said misconduct, a disciplinary proceeding was initiated against the 2nd respondent by issuing a Charge Memo dated 03.02.2008, however, the 2nd respondent has not submitted his explanation to the Charge Memo. Without submitting any explanation,



the 2nd respondent, vide letter dated 07.04.2008, sought for duty permission and thereafter the petitioner Corporation directed the 2nd respondent to appear before the Medical Board and further the petitioner Corporation, vide letter dated 26.04.2008, informed the 2nd respondent to join duty. Even after receiving the letter dated 26.04.2008, the 2nd respondent has not joined the duty. Thereafter, the petitioner Corporation appointed one Mr.K.K.Narayanan, as an Enquiry Officer. The domestic inquiry was conducted by following the principles of natural justice and adequate opportunity was afforded to the 2nd respondent to defend the charges levelled against him. The Enquiry Officer in his findings dated 04.08.2008 held that the charges against the 2nd respondent were proved. Thereafter, the petitioner Corporation issued a show cause notice dated 16.10.2018 to the 2nd respondent, calling explanation and since the explanation offered by the 2nd respondent was not satisfactory, the petitioner Corporation imposed punishment of removal from service. The said removal order was sent to the first respondent for grant of approval and the same was rejected. Aggrieved by the same, the petitioner Corporation has filed the present petition.

3. The learned counsel for the petitioner would submit that the 2nd respondent has joined as Conductor in the petitioner Corporation and he remained absent for 13



days from 23.12.2007 to 05.01.2008 without intimation, thereby, caused inconvenience to the petitioner Corporation. Therefore, a Charge Memo was issued to the 2nd respondent on 03.02.2008, however, no explanation was submitted by the 2nd respondent. Thereafter, an Enquiry Officer was appointed and domestic enquiry was conducted by following the principles of natural justice and then the Enquiry Officer submitted his report and as per the said report, the charges levelled against the 2nd respondent were proved and, accepting the enquiry report, the petitioner Corporation issued the show cause notice to the 2nd respondent. Since the explanation of the 2nd respondent to the show cause notice is not satisfied, the petitioner Corporation imposed punishment of removal from service. Thereafter, the petitioner Corporation filed an approval petition before the first respondent and the same was declined erroneously.

3.1. The main contention of the petitioner Corporation is that the first respondent has not followed the guidelines issued by the Hon'ble Supreme Court in the case of ***Lalla Ram Vs. DCM Chemical Works (AIR 1978 SC 1004)***. It is also submitted that the first respondent has no jurisdiction to interfere with the punishment, after satisfying that there was a compliance of Section 33(2)(b) of the



Industrial Dispute Act, 1947. The first respondent without affording an opportunity to the petitioner Corporation to produce the enquiry proceedings came to the conclusion that the petitioner Corporation failed to prove the case. The reason assigned by the first respondent in rejecting the approval petition is not sustainable and therefore, the same is liable to be quashed.

4. The learned counsel for the second respondent would submit that the 2nd respondent was appointed as Conductor in the petitioner Corporation and he was served with the charge memo alleging that he was absented from 23.12.2007 to 05.01.2008 without any prior intimation. In fact, the 2nd respondent was directed to appear before the Medical Board and he also appeared and thereafter joined duty on 26.04.2008. Pursuant to which, without giving any opportunity to the 2nd respondent, the petitioner Corporation has conducted the domestic enquiry and the disciplinary authority also accepted the findings of the Enquiry Officer without appreciating the facts. It is also submitted that the 2nd respondent submitted his leave application along with medical records and the same was not accepted by the petitioner Corporation. Therefore, he submitted that the punishment of removal from service is against law. Further, he submitted that the first respondent has correctly dismissed



the approval petition by assigning adequate reasons. Hence, he prayed for dismissal of the present Writ Petition.

WEB COPY

5. This Court heard both sides and perused the materials available on record.

6. In this case, there is no dispute in respect of the relationship between the parties. The second respondent was appointed as Conductor in the petitioner Corporation and he was absented from duty for a period of 13 days from 23.12.2007 to 05.01.2008 that too without any prior intimation. According to the 2nd respondent, he had furnished the medical certificate and the same was not accepted by the petitioner Corporation. There is also no dispute that domestic enquiry was conducted, wherein the 2nd respondent also participated and opportunity was also given to the 2nd respondent to defend the enquiry proceedings and after completing the enquiry proceedings, the Enquiry Officer has submitted his report stating that the charges against the delinquent were proved. The copy of the enquiry report was provided to the delinquent and explanation was called for and thereafter dismissal from service was awarded. In the domestic enquiry, the 2nd respondent submitted his explanation stating that due to illness he was unable to attend the duty and he had also marked



Exhibits R1 to R4 to that effect. The 2nd respondent was also directed to appear before the Medical Board and thereafter no opportunity was given to the 2nd respondent, thereby, he was victimised. The findings of the Enquiry Officer which was accepted by the disciplinary authority would show the victimisation on the 2nd respondent.

7. There is also a delay in sending the approval petition to the approval authority. The date of removal order is on 05.12.2011 and date of approval petition filed before the approval authority is 12.12.2011. Thus, there is delay of 7 days in sending the approval petition. Apart from that, the approval petition was not sent along with the enquiry report, immediately after passing the order of removal from service of the 2nd respondent. In this context, the Approval Authority has passed a reasoned order and the Approval Authority has also fairly come to the conclusion that by following the principles of natural justice and after affording the opportunity to the 2nd respondent, the domestic enquiry proceedings was conducted and the enquiry was proved based on the acceptable evidence. The *prima facie* case has been made out based on the acceptable evidence, however, on victimisation, the decision was taken and there is a delay in sending the approval petition after removal of the 2nd



respondent from service.

WEB COPY

8. The learned counsel for the 2nd respondent also contended that though the Approval Authority has rendered findings that after following the principles of natural justice, the enquiry was conducted and rendered findings that there was delay in sending the approval petition to the Approval Authority, whereby declining to grant the approval is in order. Further, in support of his contention, he has also relied on the judgments of this Court in ***(i) W.P.No.6693 of 2023, decided on 21.03.2023 [The Management, Tamil Nadu State Transport Corporation (Salem) Limited, Dharmapuri Vs. R.Kubendran]*** and ***(ii) W.P.No.23354 of 2019, decided on 06.02.2024 [The Management, Tamil Nadu State Transport Corporation (Villupuram) Ltd., Kancheepuram Vs. R.Janaki Raman].***

9. On a careful perusal of above judgments, it is clear that as per the Rule 64(2) of the Industrial Disputes Act, 1958, (i) the employer will have to make an application simultaneously. It does not mean that it should be made any notion of a split. (ii) If there is a delay, the Approval Authority can decline to grant approval on the ground of delay. In the case on hand also, there is delay of seven (7) days in



sending the Approval Petition. Therefore, the order passed by the Approval Authority is in order and it does not warrant any interference.

WEB COPY

10. In view of the above judgements and as discussed above, this Court is of the opinion that this Writ Petition has no merits and deserves to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

13-06-2025

jd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

The Special Joint Commissioner of Labour,
D.M.S. Campus, Chennai.



WEB COPY



P.DHANABAL J.

jd

WP No. 24385 of 2022

13-06-2025