



WEB COPY



W.P.No.25087 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.25087 of 2021

&

W.M.P.No. 26428 of 2021

The Management,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
No.27, Railway Station New Road,
Kumbakonam – 612 001.

...Petitioner

Vs.

1.T.Raja

2.The Special Joint Commissioner of Labour,
DMS Campus, Anna Salai, Chennai.

...Respondents

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorarified Mandamus, call for the records



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pertaining to the order dated 24.09.2021 passed by the second respondent in Approval Petition No.130 of 2019 and quash the same, consequently direct the second respondent to approve the order of the petitioner dated 30.09.2019 dismissing the first respondent from service.

For Petitioner : Mr. C.Senapathi
For Respondent 1: Mr. R.Ganesh
Legal Aid Counsel
For Respondent 2: Mr. M.Jayanthi
Additional Government Pleader.

ORDER

The petitioner management has challenged the dismissal of their approval petition by the 2nd respondent herein. The short facts necessary for disposing of the above Writ Petition is herein below set out.



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2. The 1st respondent was working as an Assistant Trades Man in the petitioner corporation. He had been in an unauthorised leave, for a total number of 487 days between the months of October 2017 to January 2019 which is against the Rule 24 (6) (A) of the Standing Order of the petitioner corporation. Therefore, the petitioner corporation had issued charge memos dated 08.02.2018, 23.04.2018, 06.07.2018, 16.10.2018 and 04.02.2019 against the 1st respondent.

3. The 1st respondent who had received the charge memos had not submitted any explanation. Therefore, the petitioner decided to conduct domestic enquiry on the above charge memos and appointed an Enquiry Officer to conduct enquiry. The Enquiry Officer had sent five enquiry notices to the 1st respondent on various dates asking him to appear for the enquiry. These notices were sent by registered post with acknowledgement due and the 1st respondent, despite receiving the same had not entered enquiry proceedings.



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4. Therefore, the Enquiry Officer was forced to conduct an ex parte enquiry and by his enquiry report dated 16.04.2019 held that the charges against the 1st respondent was proved. The petitioner had sent the Enquiry Report seeking for explanation from the 1st respondent. However, the postal cover was returned with the endorsement "Door Locked".

5. Once again a show cause notice dated 07.06.2019 was sent to the petitioner asking him to show cause as to why the order of dismissal from the service should not be imposed against him. To this also also there was no reply. Therefore, the dismissal order dated 30.09.2019 came to be passed and the order was forwarded to the 1st respondent along with the cheque for Rs.22,210/-.

6. The petitioner corporation filed a petition under Section 33 (2) (B) before the 2nd respondent. The same was numbered as AP.No.130 of 2019.



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7. The 2nd respondent after hearing the petitioner as well as the 1st respondent dismissed the approval petition against which the petitioner is before this Court. The 2nd respondent had held that the domestic enquiry was conducted in a proper fashion. However, with reference to the issue as to whether the prima facie case has been made out, the 2nd respondent has held that the prima facie case has not been proved. The 2nd respondent had taken note of the fact that the 1st respondent had informed the Branch Manager about the leave of absence.

8. The 1st respondent would submit that since he was unwell he had submitted his leave application to the Branch Manager and it is only thereafter that he had taken a medical treatment. This fact has not been taken into consideration during the domestic enquiry. Therefore, the allegations of the petitioner that the leave of the 1st respondent was unauthorised one has not been proved.



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9. In these circumstances the 2nd respondent had come to the conclusion that the prima facie case has not been made out. Despite knowing that the 1st respondent was unwell and therefore could not attend his work, the dismissal order is nothing but a vindictive action. Therefore, the 2nd respondent has rightly dismissed the same and this Court sees no reasons to hold otherwise.

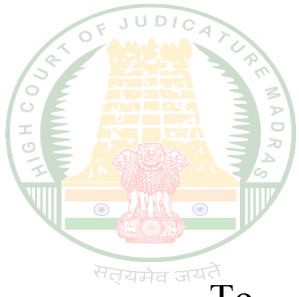
10. Accordingly, the Writ Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No

Internet : Yes/No

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To
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