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WP No. 28127 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-07-2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP No. 28127 of 2022

W.M.P.Nos.27415 of 2022 and 28965 of 2025

The Management
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai - 600 002.

Petitioner

Vs

1. The Special Deputy Commissioner of
Labour
D.M.S. Complex, IV th Floor,
Teynampet, Chennai- 600 006.

2.Thriu.G. Ravi,
Ex-Driver, No. 1/142, Pillaiyar Kovil
Street, Jalladayan Pettai, chennai- 600
100.

Respondents



PRAYER Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the order passed in A.P. No.17 of 2012 dated 02.09.2016 on the file of 1st Respondent, Chennai-6 and quash the same.

For Petitioner : Mr.C.Gauthamraj

For Respondent(s): Mr.LSM.Hasan Fizal
Additional Government Pleader
for R1

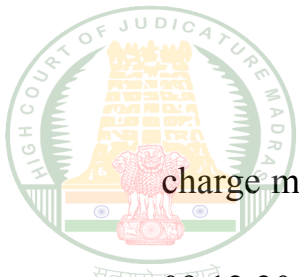
M/s. R.Sreedhar for R2

ORDER

This writ petition has been filed by the petitioner/Metropolitan Transport Corporation (Chennai) Ltd., to quash the order of approval authority, 1st respondent in A.P.No.17 of 2012 dated 02.09.2016, wherein the petitioner Management filed an approval petition for the dismissal order passed against the 2nd respondent and the same was dismissed, against which the present writ petition has been filed by the petitioner.

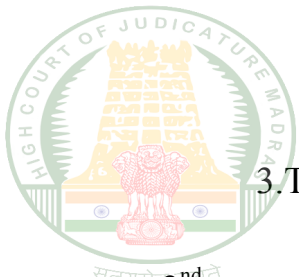
2.The 2nd respondent worked as a driver in the petitioner's management.

While so, on 18.11.2009, he had unauthorizedly absent to the duty, for that



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charge memo was issued and explanation was called from the 2nd respondent on 09.12.2010. For the charge memo, the 2nd respondent did not submit any explanation. Thereafter the 2nd respondent, the petitioner Transport Corporation has ordered to conduct a domestic enquiry. Accordingly, a domestic enquiry was held on various dates, but the 2nd respondent did not participate in the enquiry. On the result, the enquiry officer had passed an ex-parte order on 12.07.2011. After the enquiry officer's report, the petitioner corporation had caused second show cause notice to the 2nd respondent on 08.11.2011. It was received by the 2nd respondent on 25.11.2022. Further the same was affixed in Depot Notice Board also. However, the 2nd respondent did not respond to the Management's action. Therefore the petitioner Management terminated the 2nd respondent from service through order dated 12.01.2012. Thereafter the petitioner Transport Corporation filed an Approval Petition before the 1st respondent under Section 33 (2)(b) of the Industrial Dispute Act, 1947, and the 1st respondent dismissed the petition. Aggrieved by the said order, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that the 2nd respondent was unauthorizedly absent and thereafter charge memo was issued, but no reply was sent and thereafter the Domestic enquiry was conducted. Despite the notice served to the 2nd respondent and the Domestic enquiry was adjourned for several hearings, he did not appear and thereby the Enquiry Officer passed an ex-parte order on 12.01.2012 stating that charges against 2nd respondent were proved. Thereafter the petitioner Management issued 2nd show cause notice to the 2nd respondent on 08.11.2011 and the same was received on 25.11.2022 but no explanation was given. Thereafter, the petitioner Management terminated the 2nd respondent from his service on 12.01.2012. Thereafter, the petitioner Management filed an application under Section 33 (2)(b) of the Industrial Dispute Act, 1947, before the 1st respondent and the 1st respondent dismissed the petition on the ground that the petitioner Management failed to produce the enquiry proceedings and thereby unable to come to conclusion as to whether the enquiry was conducted after following the principles of natural justice, *prima facie* case based on the acceptable evidence and victimization. The Management failed to produce the enquiry proceedings



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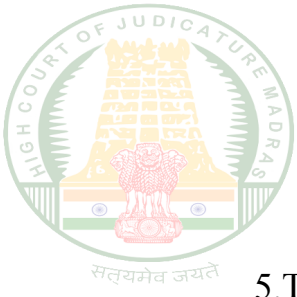
and also the approval petition was not filed either on the same day or within a reasonable time and there is a delay of 11 days and therefore declined to grant approval. In fact, the petitioner Management produced all the documents before the approval authority, but the approval authority without perusing those documents, erroneously dismissed the petition and therefore the order passed by the approval authority is liable to be quashed.

4. The learned counsel for the 2nd respondent would submit that the 2nd respondent was working as Driver in the petitioner's Management. While so, the petitioner Management issued show cause notice for his unauthorized absent and thereafter without following the principles of natural justice and without any notice to the 2nd respondent, they conducted Domestic enquiry and without any *prima facie* evidence, the Enquiry Officer rendered findings that charges against the 2nd respondent was not proved. Thereafter, the petitioner Management passed order and terminated the 2nd respondent from service. Thereafter, they filed an application before the approval authority for approval under 33 (2)(b) of the Industrial Dispute Act, 1947, where the approval



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authority dismissed the approval petition, since the petitioner Management failed to produce the enquiry proceedings. Despite several opportunities given to the petitioner Management, no enquiry proceedings has been produced before the approval authority thereby, the approval authority unable to decide whether *prima facie case* made out based on the acceptable evidence and whether any principles of natural justice followed. Moreover, there is a delay in filing the approval petition before the approval authority. The termination order was passed on 12.01.2012, but the approval petition was filed on 23.01.2012 therefore the approval authority passed a reasoned order. The approval authority passed an order on 02.09.2016, but the writ petition has been filed in the year 18.10.2022. There is an enormous delay and there is no explanation for the delay. In the meantime, the 2nd respondent attained the age of superannuation on 31.05.2025. Therefore, the writ petition is liable to be dismissed on the ground of delay and laches and the petitioner management failed to prove the charges levelled against the petitioner before the Labour Officer. Therefore, the 1st respondent correctly declined to grant approval and therefore the writ petition is liable to be dismissed.

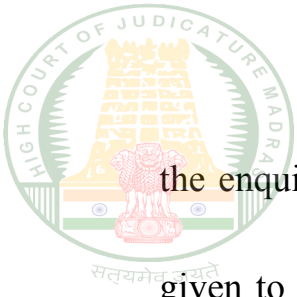


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5.This Court heard both sides and perused the materials placed on record.

6.In this case, there is no dispute with regard to the relationship of parties as employer and workmen. According to the petitioner Management, the 2nd respondent was unauthorized absent on 18.11.2009. For the aforesaid misconduct, they have issued charge memo but the 2nd respondent did not give any explanation, thereby they conducted Domestic enquiry. In the Domestic enquiry also the 2nd respondent not participated. Therefore, they issued notice to the 2nd respondent and thereafter passed the order of termination from service. According to the 2nd respondent, no notice was served and the Domestic enquiry was conducted without giving sufficient opportunity to him.

7.This Court perused the records, on perusal it is seen that the Management has not produced the enquiry proceedings of the domestic enquiry before the approval authority. Enquiry proceedings includes the day to day proceedings, recording of evidence and the diary proceedings. After perusal of



the enquiry proceedings, the authority can form opinion about the opportunity given to the delinquent to take part in the enquiry proceedings. The petitioner

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Management filed the approval petition before the 1st respondent where the approval authority declined to grant approval for non-production of the enquiry proceedings. According to the 1st respondent, without enquiry proceedings they are unable to find out whether principles of natural justice has been followed and whether any *prima facie* case made out based on the acceptable evidence and there is a victimization. Therefore, unable to hold that the above said procedures have been followed. Apart from that there is a delay in filing the approval petition before the approval authority. The termination order was passed on 12.01.2012, whereas the approval petition was filed on 23.01.2012, there is a delay of 11 days. Therefore, the approval authority declined to grant approval.

8. Further, the approval authority in the order discussed about the one month payment. According to the petitioner, they paid one month salary of Rs.12,950.70/- through cheque and the same was not accepted by the 2nd



respondent. But no records were produced by the petitioner for the above said payment. Therefore, the approval authority declined to grant approval.

Therefore it is clear that the petitioner failed to produce the enquiry proceedings before the approval authority, thereby unable to find out whether any *prima facie* case made out based on the acceptable evidence and there is a delay in filing the approval petition. Therefore, the approval authority correctly declined to grant the approval. Moreover, the approval authority passed an order on 02.09.2016, but the petitioner filed this writ petition on 18.10.2022, there is a delay of seven years and no explanation for the huge delay, therefore this petition is liable to be dismissed on the ground of delay and laches also. In the mean time, the workmen also attained the age of superannuation on 31.05.2025, therefore it is not appropriate to allow this writ petition.

9. In view of the above, the relief as sought for by the petitioner cannot be granted by this Court and accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.



10. Since the matter is pending from the year 2016, the petitioner management is directed to disburse the retirement benefits to the 2nd respondent in accordance with law within a period of four months from the date of receipt of a copy of this order.

18-07-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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