



W.P.No.28786 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 16.04.2025

CORAM :

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

W.P.No.28786 of 2019

and

WMP No.28537 of 2019

The Management,
Tamil Nadu State Transport Corporation (Salem) Limited,
Bharathipuram, Salem Main Road,
Dharmapuri – 5.

...Petitioner

Vs.

1. K.Yoganandam
2. The Special Joint Commissioner of Labour,
Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the records relating to the order dated 05.07.2018 passed by the Special Joint Commissioner of Labour, Chennai, in A.P.No.492 of 2012 and quash the same.

For Petitioner : Mr.M.Aswin

For Respondents : Mr.M.Selvam for R1
Mr.K.Surendran, AGP, for R2



W.P.No.28786 of 2019

ORDER

WEB COPY This Writ petition has been filed seeking quashment of the order of the 2nd respondent dated 05.07.2018 made in A.P.No.492 of 2012.

2. It is the case of the petitioner that the 1st respondent was employed as a conductor in the petitioner Corporation since October 1994. It is the case of the petitioner that the 1st respondent absented himself from duty from 25.06.2010 without any prior intimation or permission. The petitioner sent letters to the 1st respondent to rejoin duty and as the same evoked no response, later, the petitioner sent a letter informing that proceedings would be initiated against the 1st respondent. Even then, the 1st respondent chose not to reply or respond to any of the communications sent by the petitioner. Thereby, the petitioner corporation conducted an exparte enquiry and as the charges against the 1st respondent stood proved, the petitioner sent a second show cause notice to the 1st respondent about the proposed punishment. The 1st respondent, as usual, chose not to receive the notice. Ultimately, on 10.07.2012, the petitioner made a paper publication stating that the 1st respondent should submit his response within seven days. However, the 1st respondent neither replied nor joined the services of the petitioner. Therefore,



W.P.No.28786 of 2019

an order of dismissal was passed on 03.08.2012. Seeking approval of the said dismissal order, the petitioner corporation presented the papers before the 2nd respondent on 08.08.2012. However, the 2nd respondent, without considering any of the above said facts, rejected the approval petition filed by the petitioner corporation by order dated 05.07.2018. Challenging the same, the present Writ petition has been filed.

3. Heard the learned counsel on either side and perused the materials available on record.

4. The ingredients which should be satisfied by the employer while filing the approval petition have been spelt out in the decision of the Apex Court in ***Lalla Ram Vs. D.C.M. Chemical Works Ltd. and Ors.***, reported in ***AIR 1978 SC 1004***, wherein the Supreme Court held thus :-

"(i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held;

(ii) whether a prima facie case for dismissal based on legal evidence adduced before the domestic tribunal is made out;



(iii) *whether the employer had come to a bona fide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice and was not intended to victimise the employee;*

(iv) *whether the employer has paid or offered to pay Wages for one month to the employee; and*

(v) *whether the employer has simultaneously or within such reasonably short time as to form part of the same transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him."*

5. As regards condition one and two, the 2nd respondent held that the conditions stood satisfied because the management has produced the materials to show that they were repeatedly attempting to serve the 1st respondent in his last known address and even went to the extent of making a paper publication calling upon the 1st respondent to respond, however, the 1st respondent chose to keep mum. Hence, the conditions one and two stood satisfied. As regards condition No.3, the 2nd respondent held that when the management had decided to impose a major penalty of dismissal from service, the management ought to have given one more opportunity to the 1st respondent/workman. The Labour Court, therefore, held that the conclusion reached by the employee-Petitioner Corporation to dismiss the 1st respondent from service for mere unauthorise absence is nothing



W.P.No.28786 of 2019

but an unfair labour practice and to victimise the employee. As regards the 4th

point, the 2nd respondent held that the petitioner has proved that one month salary was sent to the 1st respondent. As regards the condition No.5, the 2nd respondent held that the order of dismissal was passed on 03.08.2012, however, the papers were presented before the 2nd respondent seeking approval only on 08.08.2012, with a delay of five days. Therefore, that condition No.5 remained unsatisfied.

6. For the above reasons, the 2nd respondent refused to grant its approval. This Court is in complete agreement with the findings arrived at by the 2nd respondent and therefore, no interference is necessary in the order passed by the 2nd respondent which is impugned in this writ petition.

7. Accordingly, this Writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

16.04.2025

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

Page No.5 of 6



WEB COPY



W.P.No.28786 of 2019

M.DHANDAPANI, J.

skt

To:

1. The Management,
Tamil Nadu State Transport Corporation (Salem) Limited,
Bharathipuram, Salem Main Road,
Dharmapuri – 5.
2. The Special Joint Commissioner of Labour,
Chennai.

W.P.No.28786 of 2019
and WMP No.28537 of 2019

16.04.2025