



W.P. No.28986 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.28986 of 2022
and W.M.P. No.28272 of 2022

Sasikumar

...

Petitioner

Vs.

1. The Joint Commissioner (Special),
Department of Labour,
4th Floor, Department of Labour Building,
D.M.S. Campus, Chennai – 600 006.

2. The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Illam, Anna Salai,
Chennai-600 002.

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Respondents

PRAYER: The Writ petition has been filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for records in impugned order dated 21.12.2021 in A.P. No.41 of 2019 on the file of the 1st respondent confirming the order of termination of service of the petitioner passed by the 2nd respondent Management vide proceedings in No.9469/SB(ON)2/MTC 2015 dated 01.02.2019.

For Petitioner : Mr. R. Rajarajan

For Respondents

For R1 : Mr. P. Anandakumar,



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Government Advocate.

For R2

: Mr. R. Balaji,
Standing Counsel.

ORDER

This Writ petition has been filed challenging the order passed by the Approval Authority in A.P. No.41 of 2019 dated 21.12.2012, wherein the 2nd respondent herein awarded a punishment of dismissal from service as against the petitioner herein in the Disciplinary Enquiry proceedings and to obtain permission for that said punishment, the 2nd respondent filed an Approval Application before the Approval Authority, the 1st respondent herein and the same was allowed. Challenging the said order, the present Writ petition has been filed.

2. The short facts necessary to dispose the Writ petition are as follows:-

The respondent was working as a 'Conductor' in the 2nd respondent's Corporation. While so, from 04.03.2015 to 31.03.2015, the respondent was allotted work only for a period of 6 days and for many days, he was left in lurch without any work allotted by the respondent's Corporation. When the petitioner was not allotted work, he had to stay in the Depot and in the course of his duty, he has developed skin allergy in his hands. The Control Officer



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who has to allot work did not allot work to the petitioner and for many days, registered the petitioner as absent. While the facts are being so, a Show Cause Notice dated 29.08.2015 was issued against the petitioner stating that he was continuously absent and did not work from 28.07.2015 continuously for more than 8 days. The petitioner also submitted his explanation and the same was not accepted and thereafter, the department conducted a disciplinary enquiry and based on the enquiry report, a second Show Cause Notice was issued to the petitioner and thereafter, the department had imposed a punishment of dismissal from service. Immediately after passing the dismissal order in the disciplinary proceedings, the 2nd respondent filed an Approval Application before the 1st respondent in A.P. No.41 of 2029 and the Approval Authority, 1st respondent herein granted approval for the dismissal of the petitioner from service vide order dated 21.12.2021. Aggrieved by the said order, the present Writ petition has been filed by the workman.

3. The learned counsel appearing for the petitioner would submit that the petitioner was employed as 'Conductor' in the 2nd respondent's Corporation. While so, he was charged for the delinquency of 'unauthorized absence' and the same was suitably replied by the petitioner. In spite of that,



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the respondent Corporation conducted Disciplinary Enquiry and thereafter, imposed penalty of termination from service. The Disciplinary enquiry was not conducted properly by following the principles of natural justice. The petitioner was not permitted to engage any co-employee to defend the enquiry proceedings. During the enquiry, the petitioner never admitted the guilty, whereas vide proceedings dated 09.08.2016, the Enquiry Officer recorded that the petitioner had admitted the charges. Moreover, the petitioner is entitled to Rs.22,328/- as monthly salary, whereas the respondent paid only a sum of Rs.12,850/-. Therefore, mandatory procedures under Section 33 of the Industrial Disputes Act were not followed. But without considering the above said aspects, the Approval Authority has granted approval. Without prejudice to the right of the petitioner, he is ready to forego the backwages and hence he may be reinstated. Even for his unauthorized absence, the punishment of removal from service is disproportionate, thereby, the petitioner may be reinstated without backwages. Also no notice was served to the petitioner by serving the copy of the findings of the Enquiry Officer, thereby, the principles of natural justice have not been followed. Therefore, the order passed by the Approval Authority is against law and the same is liable to be quashed.

4. The learned counsel appearing for the 2nd respondent would submit



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that the petitioner was appointed as 'Conductor' and thereafter, he was continuously absented himself from 28.07.2015 for more than 8 days, thereby, he was issued a Charge Memo and he also submitted his explanation. Being not satisfied with the explanation, the respondent Corporation had proceeded to conduct a domestic enquiry. In the domestic enquiry, the petitioner was given opportunity and thereafter, the enquiry proceedings were closed. As per the disciplinary enquiry report of the Enquiry Officer, the charges against the petitioner were proved. Therefore, the Disciplinary Authority, after issuing a second Show Cause Notice to the petitioner, imposed a punishment of dismissal from service. Simultaneously, they filed an Approval Application before the 2nd respondent for grant of approval for the dismissal of the petitioner from service and the same was allowed by following the guidelines issued by the Hon'ble Supreme Court in ***Lalla Ram's case*** . Therefore, the Approval Authority has passed a reasoned order. If at all the petitioner is aggrieved by the said order, he can challenge the termination order by raising an industrial dispute. Therefore, the Writ petition is liable to be dismissed.

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



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6. In this case, there is no dispute in respect of the relationship between the parties as 'workman' and 'employer'. The petitioner was appointed as 'Conductor'. Thereafter, due to his unauthorized absence, charges were framed against him and thereafter, the domestic enquiry was conducted, where the petitioner had also participated. Thereafter, the Disciplinary Authority passed an order dismissing the petitioner from service. In the meantime, the 2nd respondent filed an Approval Application before the 1st respondent Authority and the same was also allowed.

7. The main contention of the petitioner is that no principles of natural justice have been followed and no opportunity was given to him during the enquiry proceedings. The Approval Authority in the order recorded that "the petitioner participated in the Disciplinary Enquiry proceedings and sufficient opportunity was given to him, in spite of that, he did not cross examine the departmental witnesses and without cross examining the witnesses, he was himself examined as delinquent side witness in the domestic enquiry". The petitioner also, before the Enquiry Officer, admitted his unauthorized absence and the same was also recorded. Therefore, the Approval Authority has granted approval and the same is in accordance with law.



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8. The learned counsel appearing for the petitioner has also relied upon the judgment of Hon'ble Supreme Court in *John D'Souza vs. Karnataka State Road Transport Corporation in 2019 SCC Online SC 1347*. On a careful perusal of the above said judgment, it is clear that while exercising jurisdiction under Section 33(2)(b) of the Industrial Disputes Act, firstly the Labour Court will consider as to whether or not the prima facie case for discharge or dismissal is made out on the basis domestic enquiry if such enquiry does not suffer from any defect, namely, it has not been held in violation of principles of natural justice and the conclusion arrived at by the employer is bona fide or that there was no unfair labour practice or victimisation of the workman. This entire exercise has to be undertaken by the Labour Court on examination of the record of enquiry and nothing more. In the event where no defect is detected, the approval must follow. The second stage comes when the Labour Court / Tribunal finds that the domestic enquiry suffers from one or the other legal ailment. In that case, the Labour Court / Tribunal shall permit the parties to adduce their respective evidence and on appraisal thereof the Labour Court / Tribunal shall conclude its enquiry whether the discharge or any other punishment including dismissal was justified. In the case on hand, the Tribunal has recorded the findings that there is no any violation of principles of natural justice and the conclusion



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arrived at by the employer is Bonafide and there is no unfair labour practice and victimization of the workman and one month salary was also paid.

Therefore, the Approval Authority has granted approval in accordance with law.

9. The learned counsel appearing for the respondent has also relied upon judgment of Madras High Court in ***P. Pitchumani vs. The Management of Sri Chakra Tyres Ltd., represented by its Managing Director reported in 2004 (3) CTC 1***, wherein this Court held that only such violations under Industrial Disputes Act which involve public duties are amenable to Writ jurisdiction under Article 226 of the Constitution of India and the disputes relating to matters not governed by Industrial Disputes Act have to be resolved only by Common Law Courts. In the case on hand, the Approval petition was allowed. Against which, the petitioner filed this Writ petition and therefore, the above said case law will not be applicable to the present facts of the case.

10. However, this Court by exercising power under Article 226 of the Constitution of India after going through the records, came to a conclusion that the punishment awarded by the Disciplinary Authority is a shocking



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conscious and the same is grossly disproportionate to the charges. The alternative remedy is available to the petitioner to raise an industrial dispute before the Labour Court. However, the matter is pending from the year 2015 and after 10 years, once again he need not approach the Labour Court. Therefore, in order to put an end to the litigation, by invoking powers under Article 226 of the Constitution of India and as per the arguments of the learned counsel appearing for the petitioner that the petitioner is ready to waive the backwages and considering the facts and circumstances of the case, it is appropriate to set aside the punishment awarded to the petitioner by dismissing the petitioner from service and remand back the matter for imposing any minor penalty. However, the petitioner is entitled to reinstatement without any backwages and continuity of service.

11. With the above observations and directions, this Writ petition has to be allowed in part.

12. Accordingly, the Writ petition is ***partly allowed***. The 2nd respondent is directed to reinstate the petitioner into service and pass appropriate punishment as indicated above. The petitioner is not entitled to



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any backwages and continuity of service. The period of absence also can be treated as 'no work no pay'. There shall be no order as to costs.

Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order/non-speaking order
mjs

To

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2. The Managing Director,
Metropolitan Transport Corporation Limited,
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P.DHANABAL, J.,

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