



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.32838 of 2022
and WMP.No.32248 of 2022

The Management
Metropolitan Transport Corporation (Chennai) Limited,
Anna Salai,
Chennai – 600 002.

... Petitioner

Vs

1. The Special Joint Commissioner of Labour,
Authority under Industrial Disputes Act,
DMS Compound,
Teynampet,
Chennai – 600 006.

2. A.G.Mariya Anthony,
Conductor,
Employee No.C56783

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the records of the 1st respondent pertaining to his proceedings in A.P.No.31 of 2020 and quash the order dated 17.05.2002 and consequently allow the approval petition filed by the petitioner management in A.P.No.31 of 2020.



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For Petitioners : Mr.A.Vinothraj

For Respondents : Mr.L.S.M.Hasan Fizal, AGP for R1
: Mr.A.L.Franc Paul Asirvadam for R2

ORDER

This writ petition has been filed challenging the order passed by the first respondent in A.P.No.31 of 2020, wherein the writ petitioner has filed Approval Petition before the Approval Authority to grant approval for the punishment of dismissal awarded to the respondent and the same was rejected. Aggrieved by the said order, the present writ petition has been filed.

2. The shorts facts necessary to dispose of this writ petition are as follows:

The second respondent was employed as a conductor attached to the Avadi Depot. He remained unauthorizedly absent from duty from 13.03.2017. Consequently, the petitioner/management issued a charge memo dated 15.05.2017. As no reply was received from the second respondent, the management decided to conduct a domestic enquiry and appointed an Enquiry Officer. The Enquiry Officer conducted the enquiry,



and as per the enquiry report, the charges against the second respondent were found to be proved. Subsequently, the management passed an order dismissing the second respondent from service and, simultaneously, filed a petition before the first respondent under Section 33(2)(b) of the Industrial Disputes Act. However, the first respondent declined to grant approval on the grounds that the principles of natural justice were not followed, there was no prima facie case based on acceptable evidence, and there was no indication of victimisation. Aggrieved by the said order, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the second respondent was employed as a conductor under the petitioner management. He remained unauthorizedly absent from duty from 13.03.2017, which is in violation of Standing Orders 25(VI) and 25(XLIII). Accordingly, a charge memo was issued to the second respondent; however, no reply was received from him. Thereafter, a domestic enquiry was initiated after duly serving notice on the second respondent. Despite this, he failed to participate in the enquiry proceedings. Consequently, the Enquiry Officer proceeded ex parte against the second respondent and rendered a finding that the charges levelled against him stood proved. Subsequently, a



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second show cause notice was issued to the second respondent, but he again failed to submit any reply. Thereafter, the petitioner management imposed the punishment of dismissal from service. Thereafter, the petitioner filed an Approval Petition before the first respondent / Approval Authority under Section 33(2)(b) of the Industrial Disputes Act. However, the Approval Authority erroneously rejected the petition on the grounds that no prima facie case was made out based on acceptable evidence, that the principles of natural justice were not followed, and that there was no element of victimisation. The above findings of the Approval Authority are contrary to law. All relevant documents were placed before the authority, but the same were not properly considered. Therefore, the order passed by the Approval Authority is liable to be quashed.

4. The learned counsel appearing for the second respondent would submit that the charge against the second respondent is that he was unauthorizedly absent from 13.03.2017 onwards. In fact, due to health reasons, the second respondent was unable to attend duty, and the same was duly communicated to the concerned authorities. This fact was also admitted by the petitioner/management in their letter dated 06.05.2017, which was marked as Ex.B1 before the Approval Authority. In the said



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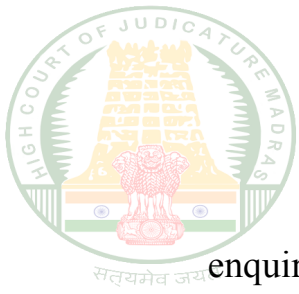
letter, the petitioner/management acknowledged that they received a leave letter from the second respondent dated 13.03.2017, requesting leave for the period from 12.04.2017 to 01.05.2017. Although the leave letter was submitted belatedly and was therefore rejected and forwarded to the Head Office for further action, it clearly indicates that the second respondent had, in fact, communicated his medical condition. Despite this, the Enquiry Officer failed to properly consider the leave application and summarily held that the charges against the second respondent were proved. Furthermore, during the disciplinary proceedings, no adequate opportunity was granted to the second respondent. The enquiry was conducted while the second respondent was on medical leave, thereby violating principles of natural justice. Therefore, the Approval Authority, after a detailed consideration of the facts and in line with the guidelines laid down by the Hon'ble Supreme Court in *Lalla Ram vs. DCM Chemical Works* (AIR 1978 SC 1004), rightly declined to grant approval. Hence, the order passed by the Labour Court is just and proper, and the present writ petition is liable to be dismissed.

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



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6. There is no dispute regarding the employer - employee relationship between the parties. The charge against the second respondent is that he was unauthorizedly absent from duty from 13.03.2017 for more than eight days, thereby violating Standing Order Nos. 25(VI) and 25(XLIII). Pursuant to this, the management issued a charge memo and conducted a domestic enquiry. However, the second respondent did not participate in the enquiry proceedings. According to the second respondent, he was unable to attend duty due to his health condition and had already submitted a medical leave letter to the petitioner/management. Despite this, the Enquiry Officer proceeded to conduct an ex parte enquiry and held that the charges were proved. However, even on merits, the alleged unauthorized absence from 13.03.2017 onward is not fully established. The letter marked as Ex.B1, dated 06.05.2017, shows that the second respondent had submitted a leave application dated 13.03.2017 for the period from 12.04.2017 to 01.05.2017. Although the leave application was submitted belatedly, the management itself acknowledged receipt of the same. Therefore, it cannot be treated as unauthorised absence. The Approval Authority in the order passed under Section 33(2)(b) of the Industrial Dispute Act discussed about the exparte decree passed by the domestic



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enquiry proceedings and not produced any documents sent to the second respondent in respect of domestic enquiry. Therefore, unable to find whether the sufficient opportunity was given to the second respondent. Furthermore, the second respondent was reportedly suffering from ill health and had applied for medical leave. Without adequately considering this or examining a competent medical witness, the management relied on a witness who had no connection to the medical certification. Thus, no prima facie case was established based on acceptable evidence. The enquiry proceedings were conducted without affording the second respondent an opportunity to participate while he was ill, which amounts to victimization. Therefore, the Approval Authority rightly declined to grant approval. Since the charge itself was not proved, and the management failed to establish that proper notice and opportunity were given to the second respondent, the findings of the Approval Authority that there was a violation of principles of natural justice are well-founded. When the second respondent was suffering from injuries without giving opportunity to the second respondent, the enquiry proceedings was conducted and the dismissal order was passed and the same amounts to victimization is acceptable. Therefore, the order passed by the approval authority warrants no interference.



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7. In view of the above said discussions, this court is of the opinion that this writ petition has no merits and deserves to be dismissed.

8. In the result, this Writ Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

15.07.2025

drl

To

1. The Special Joint Commissioner of Labour,
Authority under Industrial Disputes Act,
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P.DHANABAL, J.,

drl

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