



W.P.No.34365 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2025

CORAM:

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.34365 of 2025
and WMP.No.38532 of 2025

The Management
of Metropolitan
Transport Corporation
(Chennai) Limited
Pallavan House, Pallavan 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. P.Ramachandran

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent pertaining to his proceedings in A.P.No.389 of 2013 dated 13.03.2023 and to quash the same and consequently direct the respondent to allow the approval petition filed by the petitioner



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Management in A.P.No.389 of 2013.

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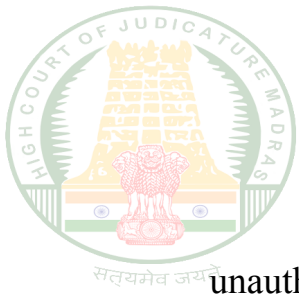
For Petitioner : Mr.A.Vinothraj
For Respondent : Mrs.M.Jayanthy
Addl. Government Pleader for R1

ORDER

This Writ Petition is filed by the Transport Corporation for Certiorarified Mandamus to call for the records of the 1st respondent pertaining to his proceedings in A.P.No.389 of 2013 dated 13.03.2023 and to quash the same and consequently direct the 1st respondent to allow the approval petition filed pursuant to the termination order by the petitioner/Transport Corporation in A.P.No.389 of 2013.

2. This is the 2nd round of litigation. Earlier the petitioner Management filed writ petition in W.P.No.15800 of 2019. The petitioner will be referred to as Transport Corporation and the 2nd respondent as workman.

3. The 2nd respondent was working as a driver in the Transport Corporation. While on duty, the workman went on continuous



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unauthorised leave for more than 8 days. Therefore, the workman was issued a charge memo dated 06.11.2012 on 21.11.2012. The workman submitted his explanation on 30.11.2012. Thereafter, an enquiry was conducted and in the enquiry report dated 08.02.2013, the enquiry officer held that the charge was proved. A show cause notice calling for the workman's explanation to the enquiry report, along with a copy of the enquiry report was sent to the workman on 23.02.2013. In the absence of an explanation by the workman to the enquiry report, the Transport Corporation decided to remove the workman from service on 23.02.2013. Despite opportunity since the workman failed to defend himself, the Transport Corporation filed approval petition before the 1st respondent in A.P.No.389 of 2013. The 1st respondent rejected the approval petition by order dated 23.10.2018 which was challenged by the Transport Corporation in writ petition in W.P.No.15800 of 2019. This Court allowed the writ petition and remitted the matter to the 1st respondent for fresh consideration. On remand, the 1st respondent, reconsidered the matter and again declined approval by the impugned order dated 13.03.2023. Aggrieved by the said order the petitioner filed the above writ petition for the aforesaid relief.



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3. Heard both sides and perused the materials available on record.

4. The labour Court in its impugned order dated 13.03.2023, following the judgment of the Hon'ble Supreme Court in the case of ***Lalla Ram Vs DCM Chemical Works***, reported in AIR 1978 SC 1004, framed the following issues:-

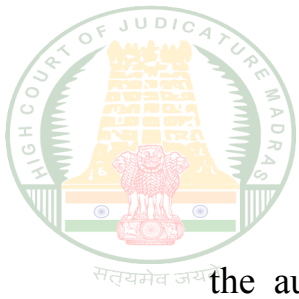
(i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held;

(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



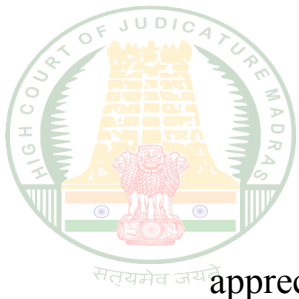
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the authority before which the main industrial dispute is pending for approval of the action taken by him.

5. The Labour Court, on appreciation of the evidence on record, found issues 1 and 4 in favour of the Transport Corporation and issues 2, 3 and 5 against the Transport Corporation. The Labour Court found on the basis of the documents filed by the workman in the earlier round of the proceedings that the workman requested the Managing Director to provide him alternate employment on medical grounds. The Labour Court also found that the Transport Corporation, having raised the plea of unauthorised absence, ought to have produced the attendance register and ought to have examined the person in-charge of the attendance register in the enquiry proceedings to prove its plea of unauthorised absence. The Labour Court in the absence of the aforesaid evidence found that mere examination of the Branch Manager was insufficient to support the plea of unauthorised absence.

6. The Labour Court also dismissed the approval petition on the ground that the petition was filed belatedly. The Labour Court on



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appreciation of the evidence on record found that the dismissal order was passed on 24.05.2013, but the petition seeking approval was filed only on 30.05.2013 with a delay of 7 days. The labour Court hence decided issue No.5 against the Transport Corporation.

7. This Court on several occasions reiterated that the provisions of Section 33[2][b] of the Industrial Disputes Act read with Rule 64[2] of the Industrial Disputes Rules, 1958 are mandatory in nature. The law enjoins that an application seeking approval of the dismissal of an employee shall be filed simultaneously with the order of dismissal and a copy thereof shall be served upon the employer. Non-observance of these statutory requirements renders the proceedings unsustainable, warranting rejection of the petition, as has been rightly done by the labour Court.

8. A learned Judge of this Court, in ***WP.No.24613/2019 [The Management, Tamil Nadu State Transport Corporation [Salem] Limited, Salem-7 Vs. C.Iyandhurai and Another]***, vide order dated 30.07.2021, while considering similar issue of delay of 8 days in filing the approval petition, held as follows:-



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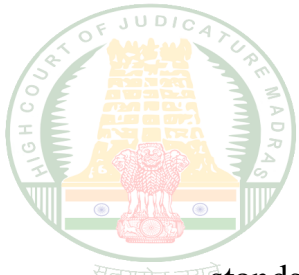


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"4.Rejection of Approval Petition on the ground that, there is shortfall in payment of one month salary cannot be accepted, as pay revision takes place retrospectively. Insofar as the delay of eight days in filing the Approval Petition is concerned, the Authority has rightly rejected the Petitioner's Approval Petition, as a reading of Section 33[2][b] of the Industrial Disputes Act, 1947, read with Rule 64[2] of the Industrial Disputes Rules, 1958, makes it clear that, an Application seeking approval of dismissal of the employee needs to be served on the employee and simultaneously, it has to be filed before the Authority. Otherwise, the Approval Petition cannot be entertained."

9.The said judgment of the learned Judge was taken up on appeal and the Division Bench of this Court, to which I was a party, in **WA.No.1555/2022**, vide judgment dated 01.08.2022, confirmed the aforesaid order of the learned Single Judge.

10. In view of the facts and circumstances of the case, I find absolutely no ground for interference in the award passed by the labour Court. I find no merits in the writ petition. Accordingly, the writ petition



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stands dismissed. No costs. Consequently, connected miscellaneous
WEB COPY petition is closed.

12.09.2025

Index: Yes/No
Speaking order/Non-speaking order
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To
The Special Joint
Commissioner of Labour
Authority under Industrial
Disputes Act,
DMS Compound,
Teynampet,
Chennai 600 006.

N. MALA, J.

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