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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2025

CORAM

THE HONOURABLE MR JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A. No. 2932 of 2025

and C.M.P.No.23739 of 2025

1. Velumani

E.No.C 40391, Driver, M/s. Tamil Nadu
State Transport Corporation (Kovai)
Limited, Tirupur Region, Palani-2
Branch, Palani, Having Permanent
Address, No.5/40, Mottananm,
Savakattupalayam Post,
Savakattupalayam Taluk, Erode
District 638 460.

Appellant(s)

Vs

1. The General Manager

Tamil Nadu State Transport Corporation (Kovai)
Limited, Erode Region, Chennimalai Road,
Erode-1.

2.The Special Joint Commissioner of Labour

DMS Complex, Chennai.



WA No. 2932 of 2025



Respondent(s)

PRAYER

The Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 18.08.2025 passed by this Court in W.P. No.15364 of 2022.



For Appellant(s): Mr. V.S.Jagadeesan

For Respondent(s): Mr. M. Murali Vinoth For R1

Mr. R.Kumaravel
Additional Government Pleader for R2

JUDGMENT

(Judgment of the Court was delivered by ***M.S.RAMESH, J.***)

The present Writ Appeal has been filed against the order dated 18.08.2025 passed by this Court in W.P. No.15364 of 2022.

2. It is the claim of the Management that when the appellant herein was transferred from Gobichettipalam Depot to Pazhani-II Depot on 13.07.2012, the appellant did not report for duty and remain absent unauthorisedly. Thus, a charge memo came to be issued on 25.10.2014 for unauthorised absence. After domestic enquiry, the appellant was imposed with the punishment of dismissal from service on 26.09.2019. However, since an Industrial Dispute was also



pending at the relevant point of time, the respondent Corporation had filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, before the 2nd respondent authority. This application in A.P.No.136 of 2019 dated 20.11.2021 was rejected by the authority on the grounds that domestic enquiry was in violation of principles of natural justice; that the enquiry was not completed on the basis of *prima facie* evidence before the enquiry officer; and that there was a delay of 5 days between 26.09.2019 and 01.10.2019 in filing the approval petition.

3. When the order of the authority was challenged by the Management before the Writ Court in W.P.No.15364 of 2022, the learned single Judge, through his order dated 18.08.2025, had recorded that the punishment was gravely disproportionate to the levelled charges and thereby, set aside the order of dismissal and granted liberty to the authority to impose a lesser punishment. The learned single Judge had also directed for treating the period of the appellant's absence as "no work, no pay" and thereby declined to award back-wages. The workman has now challenged the order passed in the Writ Petition



before us.

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4. From the order of the authority, we find that the enquiry proceedings were perused by the authority and had accordingly come to the conclusion that the proceedings itself is in violation of the principles of natural justice. That apart, the authority had also recorded that the evidences before the enquiry officer were not sufficient to come to the conclusion that the charges have been proved. The authority had also recorded that there was a delay of 5 days in filing the approval petition under Section 33(2)(b) of the Act.



5. For the purpose of rejecting the approval petition, reliance had been placed on the decision of the Hon'ble Supreme Court in the case of ***Lalla Ram Vs. D.C.M. Chemical Works*** reported in ***A.I.R. 1978 (S.C.) 1004***. In the abovesaid decision, the Hon'ble Supreme Court had categorically set-forth the circumstances under which, the authority may reject an approval petition. If any one of the circumstances therein, which includes, violation of principles of natural justice or there is no prima facie evidence before the enquiry officer or when an approval petition is not simultaneously filed, when the order of dismissal is passed.

6. Since three of the circumstances as enumerated in ***Lalla Ram's*** case have been violated, the dismissal order cannot be legally sustained. The Writ Court however, had not found all the circumstances which had been violated in ***Lalla Ram's*** case and therefore, had directed the Management to impose a lesser punishment. Now that, we have held that three among other circumstances pointed out in ***Lalla Ram's*** case has been violated, there cannot



be any legal validity to the order of dismissal.

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7. At this juncture, the learned counsel for the appellant would submit that pursuant to the order passed in the Writ Petition, the appellant has been reinstated back into service. However since, it is admitted that the appellant herein had absented himself from 15.07.2012 onwards, the findings of the learned single Judge in the Writ Petition, denying the back-wages on the principle of ‘no work, no pay’ cannot be found fault.

8. In the light of the above observations and findings, the order passed in the Writ Petition in W.P.No.15364 of 2022, dated 18.08.2025, is set aside. Consequently, we hereby order that the appellant herein shall not be entitled to receive the back-wages for the period of his absence, but, would be entitled only for continuity of service and other service benefits. Such an order shall be passed by the authority within a period of eight (8) weeks from the date of receipt of a copy of this order.



9. The Writ Appeal is allowed, accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(M.S.RAMESH, J.) (R.SAKTHIVEL, J.)

04-12-2025

ASI

Index	:Yes
Internet	:Yes
Neutral Citation	:Yes



To
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1.

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