



WEB COPY



W.P.No.46472 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.46472 of 2025
and W.M.P.No.51821 of 2025

The Management,
Rep. by General Manager,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
12, Ramakrishna Road, Salem – 7.

.. Petitioner

Versus

1. K.Venkadachalam

2. The Special Joint Commissioner of Labour,
D.M.S.Campus, Chennai.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, to call for the records in A.P.No.109 of 2021 passed by the second respondent, the Special Joint Commissioner of Labour, Chennai, dated 29.12.2023 and quash the same as illegal.

For Petitioner : Mr.M.Aswin

For Respondent : Mr.A.Rajakumar, for R1

: Mr.A.M.Ayyappan,
Government Advocate for R2



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ORDER

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This Writ Petition is filed challenging the order, dated 29.12.2023 made in A.P.No.109 of 2021. By the said order, the approval, prayed for by the petitioner management, in respect of the order of punishment of removal from service imposed on the first respondent worker, was refused by the second respondent.

2. Upon perusal of the affidavit filed in support of the Writ Petition and upon hearing of *Mr.M.Aswin*, the learned Counsel for the petitioner, it is seen that the grievance of the petitioner Corporation is that the second respondent misdirects itself in applying the principles laid down by the Constitution Bench of the Hon'ble Supreme Court of India in the case of ***Lalla Ram Vs. DCM Chemical Works***¹. It can be seen that on behalf of the management, one witness was examined and was also cross-examined. When the delinquent did not want to examine any other witness and the enquiry was closed, erroneously, the authority is taking a view that the enquiry is over in one day and finds fault with the procedure that is adopted.

3. The learned Counsel would further submit that even though the period of absence in this case in the present charge memo is only from

¹ AIR 1978 SC 1004



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21.06.2019 and the charge memo was issued on 07.09.2019, there is also an earlier conduct on the part of the same petitioner in being unauthorisedly absent besides the other punishment. This apart, it should also be noted that even after getting the order of refusal of approval in his favour, the first respondent workman is not even reporting for work. He is only insisting on he being posted in a particular place and thus, it can be seen that he is not at all interested in work and even pending proceedings, the same was the case and that was also not taken into account by the second respondent authority.

4. Per contra, *Mr.A.Rajakumar*, learned Counsel for the first respondent workman, would submit that the workman is always ready and willing to join duty. Only because he was offered duty in a different place and there is difficulty for the workman in leaving his family as he has to take care of his aged parents, he did not join in the other place. As a matter of fact, his original place was Kammampatti, Salem, whereas, the new place that was offered is in Salem city itself.

5. I have considered the rival submissions made on either side and perused the material records of the case.



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6. Firstly, the finding of the second respondent as if the procedure is not properly followed, cannot be sustained and borders on perversity. If the enquiry notice was duly issued by the Enquiry Officer, the delinquent/employee appeared for the enquiry, on that date, the management witness was examined, the delinquent chose to cross-examine the witness and when he made an endorsement that he does not have any further witness, then, the enquiry has to be concluded on that day itself. Therefore, the procedure cannot be found fault with. At the same time, with reference to the finding as to whether the finding is based on *prima facie* evidence or not, the second respondent authority finds that the onus was on the management to have proved by mustering the attendance register etc., to establish *prima facie* case that the workman was absent from the particular date. Neither ledgers nor documentary evidence was presented nor any person, who is directly in supervision, was examined.

7. It can be seen that the workman has also filed W.P.No.26485 of 2025 and a direction to consider the representation of the petitioner was issued by this Court on 22.07.2025. Even thereafter, the representation was only rejected and the employment was not offered. However, during the course of the hearing, it is informed that the petitioner is offered an



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employment in Salem City. Even though some difficulties are expressed, since the place of posting is not a very far place, no prejudice can be pleaded on behalf of the first respondent workman.

8. Considering the overall facts and circumstances of the case and the fact that the workman is also immediately willing to join the duty, I am of the view that the workman shall report for duty on or before 15.12.2025 and immediately thereupon, he must be permitted to join duty and the workman will be entitled to all continuity of service and his pay emoluments shall be accordingly re-fixed. However, he will not be entitled to any back-wages from 23.06.2019 till 22.07.2025 i.e., the date of order passed by this Court in W.P.No.26485 of 2025. From 22.07.2025, he will be entitled to back-wages.

9. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.12.2025

Neutral Citation : no
grs



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To
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The Special Joint Commissioner of Labour,
D.M.S.Campus, Chennai.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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