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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1024 of 2011

A.Balu

... Petitioner

Vs

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division 2) Limited,
Periyamilaguparai,
Trichirappalli -1.

2.The Presiding Officer,
Labour Court,
Trichirappalli -1.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent herein pertaining to the award passed in I.D.No.77 of 2001, dated 17.12.2008, quash the same and to direct the first respondent herein to reinstate the petitioner with continuity of service, back wages and other benefits.

For Petitioner : M/s.G.M.Xavier
for M/s.P.Kalaiyarasi Bharathi

For Respondents : M/s.P.Balasubramanian for R1
R2 - Court

* * * * *

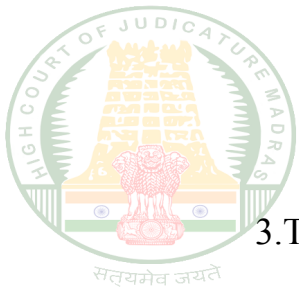


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ORDER

The present writ petition has been filed by a Driver working in the respondent transport Corporation challenging the order passed by the Labour Court, Tiruchirappalli, in I.D.No.77 of 2001, wherein the termination order passed by the Management for the unauthorised absence of the writ petitioner has been confirmed.

2.The petitioner herein was appointed as a Driver in the respondent transport Corporation on 19.10.1985. The petitioner had remained absent from 30.05.1993, onwards without applying any leave. The Management has issued a charge memo on 06.07.1993. There was no response from the writ petitioner. The Management has conducted an enquiry and proceeded to issue an order of termination on 01.12.1993. The petitioner seems to have approached the respondent Management on 12.05.1999, contending that he has not received any notice relating to the enquiry and he has been terminated without providing proper opportunity. Since there was no response from the Management, the petitioner has raised Industrial Dispute before the Labour Court, Tiruchirappalli.



3.The Labour Court after considering the oral and documentary evidence adduced on either side has proceeded to confirm the order of termination.

Challenging the same, the present writ petition has been filed.

4.According to the learned Counsel appearing for the writ petitioner, the Labour Court has not taken into consideration Ex.W1, which is a leave letter submitted by the writ petitioner through his wife to the Management seeking for leave from 30.05.1993, for a period of two months in view of his ill health. According to the petitioner, he has mentioned about the headquarters during his leave period and therefore, the Management ought to have sent the enquiry notice only to the address mentioned in the leave letter. Instead, the Management has chosen to send the notice to his old address and therefore, enquiry has not been conducted in a fair manner.

5.Per contra, the learned Standing Counsel appearing for the first respondent transport Corporation has submitted that the petitioner was unauthorisedly absent from 30.05.1993, and therefore, he was issued a charge memo on 06.07.1993, and despite providing opportunity, he has not turned up for the enquiry. Ultimately, the order of termination came to be passed on 01.12.1993. In fact the petitioner has approached the Management only in May



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1999, contending that he has been terminated illegally. Therefore, according to him, whereabouts of the petitioner was not known from the year 1993 to 1999.

In such an event, the petitioner has not explained the absence properly and after giving due opportunity to the petitioner, order of termination has been passed. He has further contended that the Labour Court has gone through Ex.W1, and has arrived at a finding that there is no proof to show that the petitioner or his wife has handed over such a leave letter to the Management. Hence, he prayed for confirming the order passed by the trial Court. He has further submitted that in view of the contentions raised by the workman, issue relating to the conduct of enquiry was taken up as preliminary issue and the preliminary award came to be passed holding that the enquiry has been conducted in a fair manner. This preliminary award was not challenged by the writ petitioner. Hence, he prayed to confirm the order passed by the Labour Court.

6.I have considered the submissions made on either side and perused the materials available on record.

7.As per the case of the petitioner, he had submitted a leave letter through his wife on 29.05.1993, seeking Medical Leave for a period of two months from 30.05.1993. A perusal of the said leave letter shows that the petitioner has not



mentioned the period for which such a leave has been sought for. It could also be seen that no Medical Certificate has been enclosed along with the leave letter seeking Medical Leave. There is no proof to show that such a leave letter was ever submitted to the Management. In fact, the petitioner has admitted in his cross examination that he has not having any proof to show that Ex.W1, leave letter was submitted to the Management. In case, if the such a leave letter was submitted by the petitioner through his wife, he should have examined his wife. However, he has not chosen to do the same.

8. Even assuming that the petitioner has taken Medical leave for a period of two months from 30.05.1993, he should have reported for duty atleast on 01.08.1993. However, the petitioner has approached the Management only on 12.05.1999, contending that he has not received notice with regard to the enquiry conducted as against him. In fact the petitioner has already been terminated on 01.12.1993, itself. The petitioner is not able to show any reasonable cause for remaining absent from 01.06.1993 till 11.05.1999. Even assuming that the leave letter has been submitted by the petitioner, it is only for a period of two months from 01.06.1993, onwards. Therefore, the Management as well as the Labour Court have arrived at a finding that the absence of the writ petitioner is unauthorised for a longer period. Considering the fact that the



respondent Management is a transport corporation and the petitioner is a Driver, the unauthorised absence would cause great prejudice to the general public. The labour Court has rightly confirmed the order of termination passed by the Management. This Court does not find any reasons to interfere in the order of termination.

9. With the above said observations, this Writ Petition stands dismissed.

No costs.

02.06.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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R.VIJAYAKUMAR, J.

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