



W.P.(MD)No.2692 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.2692 of 2025

The General Manager/Administrator,
Tamil Nadu State Transport Corporation,
Madurai Limited,
Madurai Zone, Bye Pass Road,
Madurai - 625 010.

...Petitioner

Vs

1.The Joint Labour Commissioner,
Office of the Joint Labour Commissioner,
Chennai.

2.A.Anbarasu Pandian

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorari** calling for the records pertaining to the impugned order issued by the 1st respondent in A.P.No.40 of 2023, dated 07.05.2024, and quash the same.

For Petitioner : M/s.S.Gladson Michael Rajadurai

For Respondents : M/s.D.Farjana Ghoushia
Special Government Pleader for R1
No appearance for R2

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ORDER

The Management of the Tamil Nadu State Transport Corporation, Madurai Zone, has filed the present writ petition challenging the order passed by the first respondent in A.P.No.40 of 2023, wherein an application filed by the Management under Section 33(2)(b) of the Industrial Disputes Act, 1947, has been rejected.

2.The second respondent herein who was employed as a daily wage Conductor in the petitioner Corporation had remained unauthorisedly absent from 07.05.2022. He was issued with a charge memo on 07.06.2022. The workman has not submitted his explanation.

3.The enquiry officer has issued notice on 04.07.2022, calling upon the workman to attend the enquiry on 15.07.2022. Another notice was issued on 18.07.2022, calling upon the workman to attend the enquiry on 29.07.2022. Finally, notice was issued on 29.07.2022, calling upon the workman to attend the enquiry on 10.08.2022. On all the three occasions, the workman has neither sent any communication seeking adjournment nor appeared for the enquiry, despite receipt of notice.



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4.The enquiry officer after examining the witnesses on the side of the Management has submitted the enquiry report on 17.08.2022, to the effect that the charges as against the delinquent have been proved. Even, thereafter, the Management has not chosen to send a second show cause notice.

5.The Management has sent notices on 12.09.2022, 31.10.2022 and 23.01.2023, calling upon the delinquent to attend duty. Despite reception of all these communications from the Management, the workman has not chosen to attend duty. The Management was constrained to send a second show cause notice on 07.02.2023, enclosing a copy of the enquiry report. Even, for the said show cause notice, there was no reply from the delinquent. The petitioner Management has passed the dismissal order on 29.03.2023, and the same was sent to the first respondent herein for his approval under Section 33(2)(b) of the Industrial Disputes Act, 1947. The said approval application has been rejected under the impugned order, dated 07.05.2024. Challenging the same, the present Writ Petition has been filed by the Management.

6.A perusal of the order of the first respondent reveals that the first respondent has arrived at a finding that the enquiry has been conducted after



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giving due opportunity to the workman and in strict compliance with principles of natural justice.

7.However, the first respondent has arrived at a finding that the charges as against the workman have not been proved by producing the attendance register and therefore, as a consequential finding has been arrived at to the effect that the order of dismissal has been passed as a matter of victimisation. The first respondent has further arrived at a finding that still one month wages have not been paid to the workman as contemplated under Section 33(2)(b) of the Act. That apart, the order of dismissal has been communicated to him for the approval only on 05.04.2023. Since there was a delay in filing the application seeking approval, approval petition has been rejected.

8.A careful perusal of the order impugned in the writ petition would clearly reveal that the request for approval has been rejected primarily on the ground that the Management has not established a prima facie case through acceptable evidence and the order of dismissal has not been presented to the authorities within a reasonable time.



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9.The facts narrated above will clearly indicate that the charge memo was issued to the workman on 07.06.2022, indicating that he had remained unauthorisedly absent from 07.05.2022, onwards. In the counter filed before the authorities, he had admitted his unauthorised absent. However, he has contended that due to his matrimonial dispute, he could not either send a reply or appear for the enquiry.

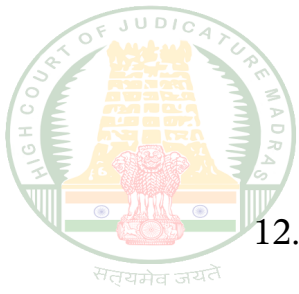
10.Though the enquiry officer has sent notices to the delinquent to appear for the enquiry on three occasions, not even on a single occasion, the delinquent has responded or appeared before the authorities. Even, after the submission of enquiry report, three notices were issued by the Management on 12.09.2022, 31.10.2022 and 23.01.2023, directing the workman to appear before the Management. Even for three notices, there was no response from the workman. A second show cause notice was issued on 07.02.2023, and even for the said second show cause notice, there was no response from the workman. In the counter filed before the approving authority, the workman has admitted that he had remained unauthorisedly absent and he could not respond to the notices due to matrimonial dispute. Considering the fact that the workman has not responded to any of the notices sent by the Management or by the enquiry



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officer for merely one year from 07.05.2022 to 29.03.2023, this Court is of the considered opinion that the first respondent has not properly appreciated the fact that the delinquent has admitted that he had remained unauthorisedly absent and he has not responded to the notices of the Management. Even assuming that the delinquent was involved in a matrimonial dispute, he could have very well responded to the notice. In such circumstances, the first respondent was not right in holding that the Management has not made out a prima facie case on the basis of acceptable evidence with regard to proving of charges.

11.As far as the finding that the approval application was filed belatedly is concerned, a perusal of the records reveal that the order of dismissal was passed on 29.03.2023, and on the same day, a cover has been received by the office of the first respondent and the seal is affixed to the covering letter of the petitioner Management. However, there has been delay in sending the records to the section concerned. The section concerned has received the letter on 05.04.2023. The delay in transmitting the approval application from one section to the other section cannot be attributed to the petitioner Management. In such circumstances, the finding of the first respondent that the application was filed belatedly is also not factually correct.



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12.The second respondent workman has received notice on 21.02.2025, and his name is printed in the cause list. Despite receipt of notice, he has not chosen to appear either in person or through Counsel. Therefore, this Court is constrained to pass orders on merits after hearing the submission of the learned Counsel appearing for the petitioner.

13.In view of the deliberations, the impugned order of the first respondent is hereby set aside and the approval application filed by the petitioner Management is hereby allowed. Accordingly, this Writ Petition stands allowed.
No costs.

23.07.2025

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



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R.VIJAYAKUMAR, J.

RJR

To

The Joint Labour Commissioner,
Office of the Joint Labour Commissioner,
Chennai.

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