



W.P.(MD).No.8766 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON :04.08.2025

ORDER PRONOUNCED ON : 08.08.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.8766 of 2022
and WMP(MD).No.6383 of 2022**

The Management
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited
Karaikudi Region through its
General Manager
Karaikudi

....Petitioner

Vs

1.The Special Joint Commissioner of Labour
DMS Complex
Teynampet
Chennai

2.M.Muthuselvam

....Respondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in the impugned order passed dated 21.12.2021 in Approval petition No.83 of 2019 and set aside the order.

For Petitioner : Mr.P.Balasubramanian

For Respondent : M/s.D.Farjana Ghoushia
Special Government Pleader for R1

:Mr.R.Saravanan for R2



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ORDER

WEB COPY The writ petition has been filed by the management of Tamil Nadu State Transport Corporation (Kumbakonam) Limited, Karaikudi Region challenging the order passed by the first respondent herein wherein the approval sought for by the management under Section 33(2)(b) of the Industrial Disputes Act for dismissing the second respondent has been rejected.

2.The second respondent herein was working as a Conductor in the petitioner transport corporation was issued with a charge memo on 10.07.2018 alleging that after having collected fare from three passengers to a tune of Rs.30/-, had not issued the tickets to them. It was further alleged that 34 sold tickets were found in the cash bag of the Conductor. After domestic enquiry, the delinquent was dismissed from service by an order dated 02.03.2019. Seeking approval for the said dismissal, the petitioner management has filed A.P.No.83 of 2019 before the first respondent.

3.The first respondent herein had found that the enquiry was conducted in a fair manner after strictly following the principles of natural justice. It was further found that the dismissal order was immediately forwarded to the approving authority. However, the approval application was rejected on the ground that *prima facie* case was not made out based upon the evidence and the management has not produced any document to establish the fact that one



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month salary was paid to the workman along with the dismissal order.

Challenging the said order, the present writ petition has been filed.

4. According to the learned counsel for the writ petitioner, the approving authority has arrived at a finding that the *prima facie* case has not been made out as against the workman merely on the ground that the passengers and the driver of the vehicle have not been examined. He relied upon the decision of the Hon'ble Supreme Court reported in **(2005) 3 SCC 241 (Cholan Roadways Ltd., Vs. G.Thirugnanasambandam)** and the Hon'ble Division Bench judgment of our High Court reported in **2015 (1) CTC 241 (The Management, Tamil Nadu Government Transport Corporation (Villupuram Division III) Ltd., Vs. The Presiding Officer Principal Labour Court, Chennai and another)** and contended that the examination of passengers in the domestic enquiry is not necessary.

5. The learned counsel for the petitioner had further contended that one month salary was enclosed along with the dismissal order and presented before the approving authority. However, without considering the said document, the approving authority has proceeded to reject the approval on the ground that the management has not produced any document to establish the payment of one month salary.

6. Per contra, the learned counsel appearing for the workman submitted that when the delinquent/conductor has disputed the allegation, the



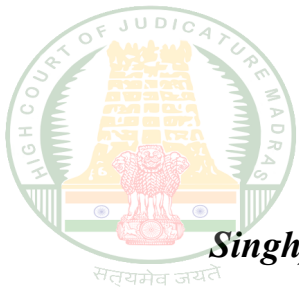
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passengers ought to have been examined. The non-examination of the concerned passenger is fatal and it had vitiated the domestic enquiry. Except the witness of Assistant Manager of the transport corporation, neither the driver nor any other third party was examined to prove the charges as against the delinquent. The learned counsel for the workman had further stated that the delinquent has received one month salary along with dismissal order. He had further pointed out that in view of lacuna found in the enquiry, the approving authority has rightly rejected for approval. He relied upon a decision of the Hon'ble Supreme Court reported in **(2018) 12 SCC 41 (A.P.S.R.T.C Vs. G.Murali)** and submitted that the non-examination of passengers is fatal.

7.Heard both sides and perused the material records.

8.The charges as against the delinquent is that after collecting fare from three passengers, the delinquent has not issued tickets. Further, it was alleged that 34 sold tickets were found in the cash bag of the Conductor. The statement given by the passengers and driver of the bus were marked before the domestic enquiry. However, neither the driver nor the passengers were examined by the management.

9.The Three Judges Bench of the Hon'ble Supreme Court in a judgment reported in **1977 (2) SCC 491 (State of Haryana and another Vs.Rattan**



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Singh) has held that the non-examination of the passengers would not vitiate the domestic enquiry. The said judgment has been followed by our Division Bench in a judgment reported in **2015 (1) CTC 241**. Therefore, the first respondent herein was not right in rejecting the approval application citing non-examination of passengers.

10.The approving authority has also rejected the application on the ground that the driver of the vehicle has not been examined. The Court can take judicial notice of the fact that the driver could not be aware of the fact whether the conductor had issued the tickets after receiving fare or any sold tickets were found in the cash bag of the conductor. Therefore, the non-examination of the driver of the vehicle will not in any way vitiate the enquiry. Further, the authority has found that the management has not placed any record to establish the payment of one month salary. However, it is contended by the management that the demand draft reflecting one month salary was enclosed along with the dismissal order.

10.In such view of the matter, the order impugned in the writ petition is set aside and the matter is remitted to the file of the first respondent to consider the application of the management for approval after verifying whether one month salary was sent to the workman along with the order of dismissal.



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WEB COPY 11.In the result, the writ petition stands allowed with the above said observation and the matter is remitted to the file of the first respondent. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2025.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

1.The Special Joint Commissioner of Labour
DMS Complex
Teynampet
Chennai

2.The Section Officer
V.R.Section
Madurai Bench of Madras High Court
Madurai



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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