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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.06.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20984 of 2019

and

W.M.P(MD)Nos.17581 of 2019, 961 & 963 of 2020

The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Dindigul - 624 004.

... Petitioner

Vs

1.The Special Deputy Commissioner of Labour,
O/o.Commissioner of Labour,
Chennai - 600 006.

2.K.Syed Ibrahim

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of certiorari, calling for the records of the 1st respondent in his proceeding in Approval Petition in A.P.No.79 of 2014, dated 11.01.2019, quash the same.

For Petitioner : M/s.J.Senthil Kumaraiah

For Respondents : M/s.D.Farjana Ghoushia
Special Government Pleader for R1
Mr.S.Arunachalam for R2

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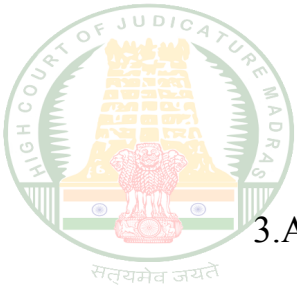


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ORDER

The Management of the Tamil Nadu State Transport Corporation has filed the present writ petition challenging the order passed by the first respondent herein on 11.01.2019, wherein he had rejected an application filed under Section 33(2)(b) of the Industrial Disputes Act, 1947, seeking prior approval for dismissal of the second respondent.

2.The second respondent herein who was working as a Conductor in the petitioner Transport Corporation was issued with a charge memo on 24.05.2012, alleging that he had misappropriated a sum of Rs.10/- (Rupees Ten only) while collecting bus fare from the passengers. After conducting domestic enquiry, he was dismissed from service on 22.02.2014. The Management has filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, before the first respondent on 24.02.2014, seeking approval for such an order of dismissal. The said approval application was rejected by the first respondent herein. Challenging the same, the present writ petition has been filed by the petitioner Management.



3.A perusal of the order impugned in the writ petition reveals that the approval application has been rejected on the following grounds:-

a)The petitioner Management has not established that the domestic enquiry was conducted in a fair manner after strictly following the principal of natural justice;

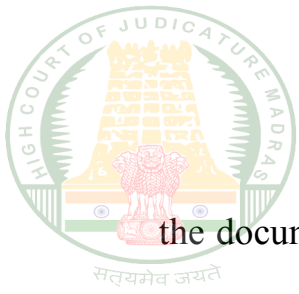
b)The Management was not able to establish the fact that there was prima facie case for passing the order of dismissal;

c)The order of termination is based on malafides;

d)There is shortage of one month salary as contemplated under Section 33(2)(b) of the Industrial Disputes Act, 1947.

4.A perusal of the grounds in the writ petition reveals that the petitioner Management has not chosen to challenge the findings of the approving authority with regard to non-compliance of the principles of natural justice and non-payment of one month salary which are the pre-conditions for approving the order of termination.

5.The learned Counsel appearing for the petitioner Management has submitted that if the order impugned in the writ petition is set aside and the matter is remitted back to the first respondent, they will place it on record, all



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the documents in support of the conduct of the enquiry and the payment of full monthly wages. This Court is not inclined to accept the said contentions.

6.The first respondent has arrived at a specific finding that the charge memo and the notice as issued to the parties for attending the enquiry have not been produced. It has also arrived at a specific findings that the workman has produced the salary receipt and the Government Order(G.O). to the effect that full monthly salary has not been paid to him. However, these two findings have not been challenged in the present writ petition. In such circumstances, this Court is not inclined to set aside the order and remit it back to the first respondent to enable the petitioner Management to let in evidence.

7.The learned Counsel appearing for the second respondent workman has relied upon the judgment of the Hon'ble Division Bench of our High Court in W.A(MD)No.1056 of 2013, dated 09.10.2013, wherein the Hon'ble Division Bench was pleased to hold that the payment of deficit monthly wages would amount to non-compliance of the conditions laid down under Section 33(2)(b) of the Industrial Dispute Act, 1947. Paragraph No.13 of the said judgment is extracted as follows:-



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“It cannot be forgotten that in the present case that the Appellant/Employer ought to have paid a sum of Rs.7,703.30/- (Rupees Seven Thousand Seven Hundred and Three and paise Thirty only) as wages for one month to the second respondent when it dismissed him from service. Also that the second respondent was paid a sum of Rs.7,661.90 (Rupees Seven Thousand Six Hundred and Sixty One and paise Ninety only) only through cheque, it was less than one month's salary/wages payable to him. As such, it is crystal clear that the Appellant had not satisfied the essential condition of Section 33(2)(b) of the Industrial Disputes Act, at the time of dismissal of the second respondent.”

8.Considering the fact that the second respondent has already attained superannuation, the petitioner Management is directed to disburse the eligible terminal benefits and the arrears of salary within a period of twelve weeks from the date of receipt of a copy of this order.

9.In view of the above said deliberations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

04.06.2025

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



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R.VIJAYAKUMAR, J.

RJR

To

The Special Deputy Commissioner of Labour,
O/o.Commissioner of Labour,
Chennai - 600 006

W.P.(MD)No.20984 of 2019

04.06.2025