

W.P(MD)No.18746 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.18746 of 2018

S.Antony Doss

... Petitioner

Vs.

1.***

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye Pass Road,
Madurai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Award in I.D.No.196 of 2003, dated 25.10.2013 passed by the Labour Court, Tiruchirappalli and quash the same as illegal and consequently direct the second respondent to give the continuity of service with back wages to the petitioner and also direct the second respondent to pay all the retirement benefits and pension benefits to the petitioner along with interest fixed by this Court within the stipulated time period.

For Petitioner : Mr.A.Mu.Sharavanan



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For Respondent : Mr.J.Senthil Kumaraiah

ORDER

The present writ petition has been filed by the Conductor of the respondent Transport Corporation challenging the award passed by the Labour Court, Tiruchirappalli in I.D.No.196 of 2003, dated 25.10.2013.

2. The petitioner herein, who was working as a Conductor in the respondent Transport Corporation was issued with a charge memo for certain misconduct and ultimately, he was dismissed from service on 26.03.2002. This dismissal order was put to challenge by the workman in I.D.No.196 of 2003. The Labour Court after considering the submissions made on either side has proceeded to confirm the order of punishment imposed by the Management. Challenging the same, the present writ petition has been filed.

3. According to the learned Counsel appearing for the writ petitioner, he had raised two industrial disputes in I.D.Nos.429 and 430 of 1995 before the Labour Court, Tiruchirappalli and both the industrial disputes were disposed of only on 24.11.2003. Therefore, when the order of dismissal was passed on



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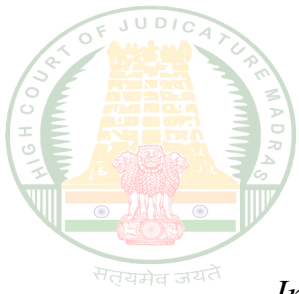
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26.03.2002, already industrial dispute were pending before the Labour Court, Tiruchirappalli. In such circumstances, a prior approval of the competent authority should have been obtained under Section 33(2)(b) of the Industrial Disputes Act, 1947 for passing an order of dismissal. However, without getting any approval orders from the competent authority, order of dismissal has been passed.

4. The learned Counsel appearing for the petitioner also submitted that, this ground was raised by him in paragraph No.8 of the petition filed before the Labour Court. However, the same was not properly considered by the Labour Court and has proceeded to confirm the order of dismissal.

5. Per contra, the learned Counsel appearing for the respondent herein, relying upon his counter submitted that, at the time of dismissing the petitioner, no industrial dispute was pending between the employee and the Union and there is no necessity for the Management to get an approval as per Section 33(2)(b) of the Act. Paragraph No.6 of the counter is extracted as follows:

"6. I humbly submit that the petitioner in his affidavit at Para No.13 he raised plea that as per Section 33(2)(b) of the



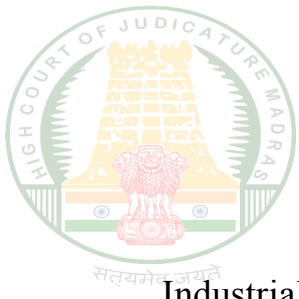
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Industrial Disputes Act, 1947 he was not paid one month salary and unlawful Labour practice, the averments at Para No.13 is totally denied and legally incorrect. The Section 33(2)(b) of the act is made applicable / enforceable only when if any employee is dismissed and at the same time there must be pending industrial dispute between the management and the union of the employees, by then only the Section 33(2)(b) of the act is comes into force. Admittedly in this case while dismissing the petitioner (i.e.) on 26.03.2002 there is no industrial dispute is pending between the employee and union. Hence the management did not got approval mandate as per Section 33(2)(b) of the act."

6. Heard both sides and perused the materials available on record.

7. The petitioner workman through the Trade Union had initiated industrial disputes in I.D.Nos.429 and 430 of 1995 before the Labour Court, Tiruchirappalli and the same was disposed of only on 24.11.2003. Therefore, it is clear that, when the dismissal order was passed as against the petitioner on 26.03.2002, an industrial dispute was pending before the Labour Court, Tiruchirappalli. In such circumstances, the Management ought to have approached the competent authority under the Industrial Disputes Act seeking approval for the dismissal as contemplated under Section 33(2)(b) of the



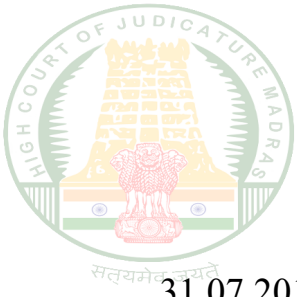
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Industrial Disputes Act. In case, if any approval has not been sought for, then the order of dismissal becomes illegal in the eye of law. Though this fact was brought to the notice of the Labour Court, it has not considered the said issue. Even though it is contended by the respondent that no industrial dispute was pending, the learned Counsel appearing for the petitioner has placed on record the order copy of the Labour Court, Tiruchirappalli in I.D.Nos.429 and 430 of 1995. Thereafter, this Court has granted time to the respondent Transport Corporation to verify about the said industrial dispute. After verification, it has been found that, in fact an industrial dispute raised by the workman through the Union was pending at the time of passing orders of dismissal.

8. In view of the above said facts, it is clear that the order of dismissal is invalid in the eye of law and the Labour Court has not properly appreciated the said fact.

9. In view of the above said deliberations, the order of dismissal, dated 26.03.2002 passed by the respondent Transport Corporation and the order of Labour Court, dated 25.10.2013 in I.D.No.196 of 2003 are hereby set aside. Considering the fact that the petitioner has already attained superannuation on



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31.07.2011, the respondent Transport Corporation is directed to release the entire terminal benefits, back wages, pension benefits and other attendant benefits, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

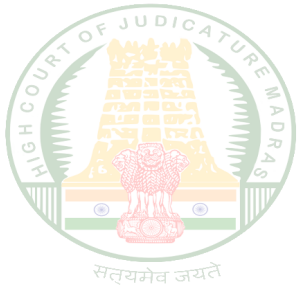
10. With the above observations, this writ petition stands allowed. There shall be no order as to costs.

16.07.2025

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

The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye Pass Road,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

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