



WEB COPY

WP No. 5397 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-04-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 5397 of 2025

and

WMP No.5950 of 2025

The Management
Rep. by its General Manager
Tamil Nadu State Transport Corporation(Salem) Ltd
Salem Main Road,
Bharathipuram,
Dharmapuri -636 705

..Petitioner(s)

Vs

1.The Special Joint Commissioner of Labour
D.M.S. Campus,
Chennai

2.P.Srinivasan
S/o. Perumal
Kangojikothur Village and Post,
Krishnagiri Taluk, District- 636121.

..Respondent(s)

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records in A.P. No 217 of 2023 dated 25.09.2024 passed by the 1st respondent, the Special Joint Commissioner for Labour, Chennai and to quash the same.



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For Petitioner(s): Mr.T.Anand Gopalan
Standing Counsel
Assisted by M/s.K.Raja

For Respondents: Mr.M.Rajendiran for R1
Additional Government Pleader
Mr.M.Venkatesh for R2

ORDER

This petition has been filed challenging the impugned order dated 25.09.2024 passed in A.P. No 217 of 2023 by the 1st respondent, the Special Joint Commissioner for Labour, Chennai and seeking to quash the same.

2.The case of the petitioner Management is that the second respondent joined as a Driver in the petitioner Corporation on 07.08.2012. On 08.07.2023, while employed as a driver of the bus bearing Registration No. 29/N 2170, he drove the bus from Krishnagiri Town Branch near Kaveripattinam bus stand. During inspection, the Inspector of the petitioner Corporation examined the diesel card and diesel tank lock. The second respondent failed to give proper answers and refused to sign the memorandum. Further, he instigated the passengers and created a commotion among them, and thereafter absconded from duty at an intermediate stop during the night. Consequently, the second



respondent was placed under suspension on 10.07.2023. Subsequently, a charge memo was issued to him on 08.08.2023, for which he submitted his explanation on 09.09.2023. As the explanation was not satisfactory, a show cause notice was issued on 03.11.2023, and an enquiry was conducted on 16.11.2023. On the same day, the Enquiry Officer recorded a proven minute. Based on the enquiry report, a second show cause notice was issued on 11.12.2023. Thereafter, the second respondent was dismissed from service by an order dated 22.12.2023. On the same day, the petitioner Management filed an Approval Petition in A.P. No. 217 of 2023 before the first respondent, the Special Joint Commissioner of Labour, Chennai, which was received by the Court on 28.12.2023. However, the first respondent concluded that the approval petition was not filed simultaneously and accordingly dismissed it. Challenging the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner would further submit that, relying upon the order passed by the Labour Court holding that the approval petition was not filed simultaneously, this Court also dismissed the writ petition. Aggrieved by the same, the petitioner filed W.A. No. 709 of 2026 before the Division Bench of this Court. The Hon'ble Division Bench, by order dated 17.03.2026, upon perusal of the postal receipts, arrived at the conclusion that the approval petition had in fact been sent on the same day, i.e., on 22.12.2023,



and was received on 28.12.2023. Accordingly, the Division Bench set aside the order of this Court and remanded the matter back for fresh consideration.

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4. The learned counsel would further submit that this Court has to consider whether the enquiry was conducted in a proper manner. In the present case, the enquiry was conducted on 16.11.2023 and, on the same day, the Enquiry Officer recorded a proven minute. However, conducting the enquiry and drawing the proven minute on the same day cannot be held to be illegal, so long as the petitioner establishes the misconduct committed by the workman. In the present case, based on the proven minute, the Enquiry Officer proceeded with the enquiry by examining the management witness, who was also cross-examined by the second respondent. Further, the second respondent did not adduce any evidence before the Enquiry Officer with regard to the examination. In the absence of any evidence on behalf of the second respondent, the Enquiry Officer rightly drew a proven minute against him, which cannot be interfered with and has to be examined only before the Labour Court under Section 2A(2) of the Industrial Disputes Act or under Section 33(2) of the Industrial Disputes Act. Moreover, prior to the present punishment, there were 14 earlier punishments imposed against the second respondent. Considering his past record along with the present misconduct, the impugned order of dismissal



has been passed. Accordingly, the learned counsel prayed for allowing the writ petition.

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5.Per contra, the learned counsel for the second respondent would submit that the second respondent entered service in 2012 and that, for his previous alleged misconduct, punishments were imposed on flimsy grounds and by way of victimisation. In the present case, except for examining the management witness, no independent eye-witnesses were examined. The enquiry was conducted on 16.11.2023, and on the same day, the Enquiry Officer drew a proven minute. Based on the enquiry report, an order of dismissal was passed, which, according to the learned counsel, amounts to a clear violation of the principles of natural justice. It was therefore contended that the first respondent, by applying the ratio laid down in *Lalla Ram v. DCM Chemical Works* reported in AIR 1978 SC 1004, rightly dismissed the approval petition, which does not warrant interference. Hence, the learned counsel prayed for appropriate orders.

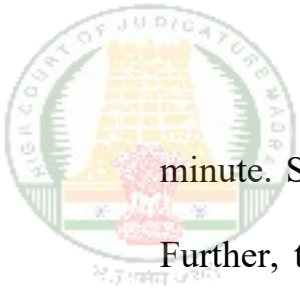
6.Heard the learned counsel appearing on either side and perused the materials on record.



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7. Earlier, the present writ petition was dismissed solely on the ground that the application was not filed simultaneously. However, the petitioner Management established before the Division Bench of this Court that the approval petition had in fact been sent on the same day. Hence, this Court has no hesitation in arriving at the conclusion that the approval petition was filed simultaneously, on the basis of the postal receipts produced by the petitioner Management before the Division Bench of this Court.

8. Now, the issue to be considered by this Court is whether the enquiry was conducted in a proper manner. In the present case, a charge memo was issued against the second respondent on 08.08.2023, fixing the enquiry on 16.11.2023. The second respondent submitted his explanation on 09.09.2023, denying the charges. Thereafter, the enquiry was conducted on 16.11.2023, and on the same day, the Enquiry Officer drew a proven minute. Subsequently, a show cause notice was issued on 11.12.2023, and based on the enquiry report, the order of dismissal was passed on 22.12.2023. On perusal of the dismissal order dated 22.12.2023, it is evident that the enquiry was fixed on 16.11.2023. On that day, only one management witness was examined, and the second respondent cross-examined him. Based on such cross-examination, the Enquiry Officer closed the enquiry on the same day and immediately drew a proven



minute. Such an approach adopted by the Enquiry Officer is unknown to law.

Further, the earlier punishments imposed against the second respondent were only for flimsy reasons and not for major misconduct. Considering all these facts, this Court has no hesitation in arriving at the conclusion that the enquiry was not conducted in a fair and proper manner. On this sole ground, the approval petition is liable to be rejected, and accordingly, the order passed by the Labour Court is upheld.

9.The learned counsel appearing for the second respondent, on instructions, would submit that this Court may order reinstatement without directing payment of back wages.

10.Considering the previous misconduct and the attitude of the second respondent towards the Supervisor as well as the Branch Manager, this Court is of the view that he is not entitled to back wages. However, he is entitled to continuity of service and other attendant benefits.

11. In the result, the writ petition is dismissed. The order passed by the Labour Court is upheld. The petitioner Management is directed to reinstate the second respondent within two weeks from the date of receipt of a copy of this



order, without back wages but with continuity of service and attendant benefits.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

06-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Uma

To

1.The Special Joint Commissioner of Labour
D.M.S. Campus, Chennai

2.Tamil Nadu State Transport Corporation(Salem)
Ltd Salem Main Road, Bharathipuram,
Dharmapuri -636 705



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M.DHANDAPANI, J.

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