

The Management vs the Special Deputy Commissioner of Labour

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Court : Chennai

Decided On : Jun-10-2025

Judge : Honourable Mr.Justice P. Dhanabal

Appeal No. : WP/4348/2022

Appellant : The Management

Respondent : The Special Deputy Commissioner of Labour

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL and W.M.P. No.4467 of 2022 The Management, M/s. Metropolitan Transport Corporation (Chennai) Ltd., Pallavan Illam, Anna Salai, Chennai-600 002. .. Petitioner vs.

1. The Special Deputy Commissioner of Labour, D.M.S. Complex, IV Floor, Teynampet, Chennai-600 006.

2. G. Shiva .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records pertaining to the order passed in A.P. No.2 of 2019 dated 14.12.2021 on the file of the 1st respondent, Chennai-6 and to quash the same. For Petitioner : Mr. R. Balaji, Standing Counsel for Mr. M. Chidambaram For Respondents : Mr. L.S.M. Hassan Faizal, Additional Government Pleader [for R1] Mr. K. Malaikannu [for R2]

ORDER

This Writ petition has been filed by the petitioner Management to quash the order passed in A.P. No.2 of 2019 dated 14.12.2021 on the file of the 1st respondent.

2. The short facts necessary to dispose of the Writ petition are as

follows: The 2nd respondent worked as a 'driver' in the petitioner's Management and he was charged for the delinquency as he was unauthorizedly absent to the duty with effect from 10.05.2006 and a charge memo was issued on 12.06.2006. The 2nd respondent failed to submit his explanation and thereafter, a domestic enquiry was ordered. The 2nd respondent failed to participate in the domestic enquiry. Thereafter, an exparte order was passed by the enquiry officer. As per the report of the enquiry officer, charges against the 2nd respondent were proved. The petitioner Management sent a Show Cause Notice on 25.06.2007, for which also, the 2nd respondent has not

submitted his explanation and therefore, the Disciplinary Authority passed an

order by terminating the 2nd respondent from service on 12.07.2007.

Thereafter, the petitioner Management filed a petition under Section 33(2)(b) of the Industrial Disputes Act before the 1st respondent in A.P. No.2 of 2019 and the

same was rejected by the 1st respondent. Therefore, the said order is challenged by the Management through this Writ petition.

3. The learned counsel appearing for the petitioner would submit that

the 2nd respondent was appointed as driver in the petitioner Management and he was a habitual absentee and due to his frequent unauthorized absence, a charge memo was issued on 12.06.2006 and no any explanation was submitted by the 2nd respondent. Thereafter, an enquiry officer was appointed and a domestic enquiry was conducted. In the domestic enquiry, the 2nd respondent failed to participate and hence the enquiry officer passed an exparte order by stating that the charges against the 2nd respondent were proved. Thereafter, the 2nd Show Cause Notice was issued in respect of the enquiry report and no any further representation was submitted by the 2nd

respondent and thereafter the Disciplinary Authority passed an order

terminating the 2nd respondent from service on 12.07.2007. During the

termination of the 2nd respondent, there was a common dispute pending before the Special Deputy Commissioner of Labour. Therefore, in order to comply the Section 33(2)(b) of the Industrial Disputes Act, the petitioner Management filed an approval petition in A.P. No.2 of 2019 and the same was dismissed. The Special Deputy Commissioner of Labour failed to consider the matter as per the principle laid down by the Hon'ble Supreme Court in Lall Ram vs. DCM Chemical Works reported in AIR 1978 SC

1004. The 2nd respondent had violated the standing orders and failed to co-

operate for the domestic enquiry. The 2nd respondent failed to file a complaint under Section 33(a) of the Industrial Disputes Act. The 2nd respondent was

already awarded punishment for more than 10 times, but the

same has not been considered by the 1st respondent. Therefore, the order

passed by the 1st respondent is liable to be quashed.

4. The learned counsel appearing for the 2nd respondent would submit

that the petitioner Corporation without giving opportunity to the 2nd respondent conducted a domestic enquiry and no any document is filed by the petitioner Management to prove that notice was served to the 2nd respondent. The Writ petitioner has not filed any document before the Approval Authority

and there is no any prima facie case in the domestic enquiry and no records produced by the petitioner Management to prove the payment of one month salary to the 2nd respondent and the termination order was passed on 12.07.2007, but the approval petition was filed only on 05.06.2018 i.e., after 11 years. Therefore, the approval petition was rejected by the authority. Hence, the present Writ petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. In this case, the termination order was passed on 12.07.2007, but the

approval petition was filed only on 05.06.2018. There is a delay of 11 years in filing the approval petition and the petitioner Management also has not produced any document before the approval authority. As per the dictum laid down by the Hon'ble Supreme Court in Lall Ram vs. DCM Chemical Works reported in AIR 1978 SC 1004, the Approval Authority has also fairly concluded that no document was produced by the petitioner Management to show that opportunity was given to the 2nd respondent to defend the domestic enquiry proceedings and no records were produced to show that notice was

served to the 2nd respondent and in order to ascertain that whether one month salary was paid to the 2nd respondent or not, no any documents were produced by the Management. Moreover, the termination order was passed on 12.07.2007 and the approval petition was filed with inordinate delay on 05.06.2018. Therefore, the approval authority has rejected the approval sought for by the petitioner Management. Hence the order passed by the Approval Authority is in accordance with law and it does not warrant any interference of this Court.

7. In view of the above discussions, this Writ petition has no merits and deserves to be dismissed.

8. Accordingly, the present Writ petition is dismissed. Consequently, the connected miscellaneous petition is closed. 10.06.2025 Index : Yes/No

Speaking order/non-speaking order

mjs P. DHANABAL, J., mjs To The Special Deputy Commissioner of Labour, D.M.S. Complex, IV Floor, Teynampet, Chennai-600 006. 10.06.2025

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