

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.14684 of 2016

& W.M.P.No.12850 of 2016

A.Natarajan

.. Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport
Corporation (CBE) Ltd.,
37, Mettupalayam Road,
Coimbatore-641 043.
2. The General Manager,
Tamil Nadu State Transport
Corporation (CBE) Ltd.,
Erode Region, Chennimalai Road,
Erode-638 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for records from the second respondent, vide his proceedings in Reference1/D4/970/Legal/TNSTC/ER/2015, dated 04.04.2016 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.A.Rajendiran
For Respondents : Mr.P.Kannan Kumar

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorari to call for records from the second respondent, vide his proceedings in Reference1/D4/970/Legal/TNSTC/ER/2015, dated 04.04.2016 and quash the same as illegal, arbitrary and against the principles of natural justice.

2. It is the case of the petitioner that he had been working as Driver in the respondent-Transport Corporation from

23.05.1996. He obtained driving licence on 15.12.1984 and endorsement to drive heavy transport vehicle was made on 14.02.1986. His public service badge No. is 13221/86. In Anithiyur Branch, he had been posted not to drive the same single vehicle, but as a spare driver and had to drive when others posted to those vehicles have to be given weekly rest/leave. On 21.11.2015, the petitioner was allotted to drive the bus TN-33-N-2770 in the route Anthiyur to Coimbatore, via Mettur. The route length is 205 Kms. and he took the vehicle from the Branch at about 5 a.m. and drove it with care and caution and as per the Rules of the Transport Corporation. It was a week-end Saturday and there was heavy traffic on the day in all the roads and hence, he was constrained to navigate very slowly in the down-gear moving the distance, consuming a little more amount of diesel. It is further stated that the age of the vehicle is more than 5 years, owing to the reason that it was put on the road as early as on 25.05.2011 and it had become old model. It is the policy of the respondent-Transport Corporation that the vehicle is liable for condemnation when it has completed six years and this particular vehicle has surpassed more than 5 years and 11 months in its span of service.

3. It is further stated that on 21.11.2015, when the petitioner had closed the trip and brought back the vehicle and was in the process of filling the HSD oil in the bunk situated in the premises of the Branch, the vehicle diesel tank took 93 litres to get it topped up. The respondents, without any scientific study, had fixed 86 litres as the norm for the vehicle and on the particular day, the diesel in-charge Mr.V.Ganesan had shouted at the petitioner and humiliated the petitioner and came to the conclusion that the petitioner never took care to conserve diesel. The petitioner answered him, by stating that on the particular day, there were many bottlenecks and the petitioner followed the principles meticulously and the other factors played a major role for the consumption of diesel. The second respondent proceeded with disciplinary action against the petitioner by receiving the basic report, dated 23.11.2015 from the Branch and issued a charge memo, dated 03.12.2015, which according to the petitioner is cryptic and did not talk about any eye-witness for the alleged utterances of the petitioner against the diesel-in-charge. It is further stated that Mr.V.Ganesan, who has given the said basic report, is in the cadre of Traffic Inspector in the respondent-Corporation, with personal enmity on the petitioner. It is the grievance of the petitioner that without conducting any domestic enquiry, the second respondent issued the impugned order, dated 04.04.2016, with proposed punishment to cut three years' increment without cumulative effect. Challenging the same, the petitioner has filed the above Writ Petition, for the relief stated supra.

4. When the Writ Petition is taken up for consideration, learned counsel for the petitioner contended that the charge memo was issued only on the allegation that on that particular day, the vehicle driven by the petitioner consumed more diesel. Learned counsel further contended that due to heavy traffic on that particular day in all the roads, the petitioner was constrained to navigate very slowly in the down-gear, and hence, there cannot be charge memo with regard to the consumption of diesel. Without any scientific study, the respondents have fixed 86 litres as the norm for the vehicle. Learned counsel for the petitioner further submitted that the relevant documents have not been furnished to the petitioner regarding the charge memo. He further contended that the charge memo is issued in violation of Standing Order No.15(e) of the respondent-Transport Corporation. Hence, learned counsel for the petitioner prayed for quashing the impugned order.

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

6. The main submission of the learned counsel for the petitioner is that there cannot be any charge memo on the allegation that the vehicle driven by the petitioner had consumed more diesel. But, on a careful perusal of the charge memo, I find that the same was issued mainly on the ground that the petitioner had shouted at the person in-charge of diesel. Therefore, in my considered opinion, the charge memo was issued for the reason that the petitioner differently answered to the person in-charge of diesel. Hence, I am not inclined to accept the submissions made by the learned counsel in this regard.

7. However, I find that the charge memo is bereft of relevant particulars and the charge memo is in violation of Standing Order No.15(e) of the respondent-Transport Corporation. Since the charge memo is issued in violation of the above said Standing Order, the impugned order proposing punishment, is liable to be quashed. Accordingly, the impugned order is quashed. The Writ Petition is allowed. The respondent-Transport Corporation is at liberty to issue fresh charge memo in accordance with the Standing Orders by giving necessary details. No costs. W.M.P. is closed.

Sd/-

ASST. REGISTRAR

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SUB ASST. REGISTRAR

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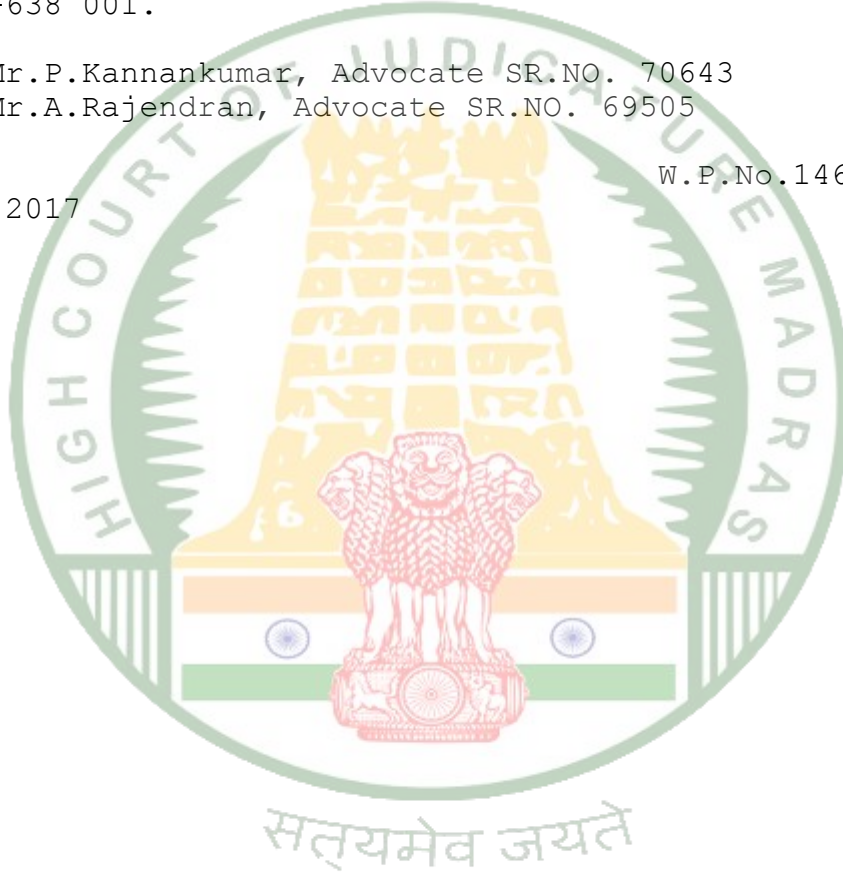
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+1 cc to Mr.P.Kannankumar, Advocate SR.NO. 70643

+1 cc to Mr.A.Rajendran, Advocate SR.NO. 69505

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MMP 03.01.2017
CO(NM)



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