

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.No.1004 of 2015
and
M.P.No.1 of 2015

K.Rajendran

... Appellant

vs.

1.The General Manager
Tamil Nadu State Transport Corporation
(Salem) Ltd., Dharmapuri Zone,
Dharmapuri - 5.

2.The District Educational Officer,
Hozur, Dharmapuri.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.06.2015 passed by a learned Single Judge of this Court in W.P.No.18534 of 2015.

Writ Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records connected with the impugned order in Pa.Mu.No.288-852-T6- TNSTC-2013 dated 20.6.2015 issued by the 1st respondent to quash the same and consequently direct the respondents to reinstate the petitioner into service with all benefits

For Appellant : Mr.N.G.R.Prasad and
Mr.V.Govardhanan
For R1 : Mr.P.Paramasivadoss
For R2 : Mr.P.S.Sivashanmuga Sundaram, SGP

JUDGMENT

(Order of the Court was made by HULUVADI G. RAMESH,J.)

Challenging the order of dismissal of the writ petition, the petitioner has come up with the present Writ Appeal.

2.For the sake of convenience, the parties are referred to as per their rank in the writ petition.

3.It is the case of the petitioner that he joined as a driver in the respondent Corporation on 14.03.1992. After completing 21 years of service, he was issued a charge memo dated 23.07.2013 alleging that he had produced a bogus educational certificate at the time of joining. After conducting enquiry, he was dismissed from service by order dated 20.06.2015, against which, he filed a writ petition in WP.No.18534 of 2015. The said writ petition was dismissed, by order dated 26.06.2015. Hence, this writ appeal.

4.The learned Single Judge, without going into the merits of the claim made by the petitioner, dismissed the writ petition, on the point that without contesting the application filed by the respondent Corporation under Section 33(2)(b) of the Industrial Disputes Act, seeking approval of dismissal, the petitioner has filed the writ petition.

5.Heard the submissions of the learned counsel on either side and perused the materials.

6.Admittedly, the petitioner joined as a driver in the respondent Corporation. While he was working as such, he was dismissed from service on the ground that he had submitted a bogus school certificate at the time of joining the service, claiming that he passed 8th standard and left the school in 9th standard.

7.It is the case of the petitioner before the enquiry officer during the departmental proceedings as well as before this Court that the petitioner studied upto 8th standard in Government Higher Secondary School, Soolagiri, Hosur Taluk, Dharmapuri District and he left the school in 9th standard at the mid of the academic year 1975 -76, whereas, the same is refuted by the learned counsel for the respondent Corporation contending that the school certificate produced by the petitioner was not genuine and that, the petitioner resorted to forgery and produced bogus records for the purpose of gaining employment in the respondent Corporation.

8.It appears from the materials that at the time of appointment of the petitioner, viz., in the year 1992, the qualification prescribed for the post of driver was only eighth standard. At this juncture, the learned counsel for the petitioner has invited the attention of this Court to a document enclosed at page 1 of the typed set of papers purported to be the transfer certificate of the petitioner, which would go to show that the petitioner studied upto 8th standard and he left the school in 9th standard. Though the learned counsel for the

respondent Corporation raised a doubt about the truthfulness of the said document, it is not his case that the driving licence produced by the petitioner was bogus or fabricated or the petitioner does not possess the requisite experience. Further, it is not a case, wherein, the petitioner was not having the prescribed qualification for the post of driver, at the time of entry into service. The only allegation raised against the petitioner is that he had submitted a bogus school certificate.

9. Thus, having considered the fact that the petitioner has put in 21 years of service as on the date of issuance of charge memo and he has not committed any mistake during the course of such employment except the alleged production of the bogus school certificate and taking note of the nature of the allegation raised against him, we are of the view that the order dismissing the petitioner from service appears to be too harsh. Hence, in order to provide an opportunity to the petitioner, the respondent Corporation shall re-examine the issue on the basis of the original transfer certificate to be produced by the petitioner.

10. Accordingly, the petitioner is directed to approach the respondents with the original transfer certificate and on such approach, the respondents shall verify the same with the school authority. If it is genuine, the respondents shall reinstate the petitioner in service with all benefits, however, without backwages for the period, during which, he was not working i.e., from the date of dismissal till the date of reinstatement, on the principle of 'no work no pay'. The entire exercise shall be completed within a period of three months from the date of receipt of a copy of this order. It is made clear that if the transfer certificate is found to be not genuine, it is open to the respondents to proceed further in accordance with law.

11. The Writ Appeal is disposed of as indicated above. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The General Manager
Tamil Nadu State Transport Corporation
(Salem) Ltd., Dharmapuri Zone,
Dharmapuri - 5.

2.The District Educational Officer,
Hozur, Dharmapuri.

+ 1 cc to Mr.N.G.R.Prasad Advocate,SR.75230

+ 1 cc to Mr.P.Paramasivadoss Advocate,SR.75546

+ 1 cc to The Govt.Pleader, SR.75684

W.A.No.1004 of 2015

SS (CO)
NR 12/12/2017



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