

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.39936 of 2015

& M.P.No.1 of 2015

1 C.Ravichandran ... Petitioner

Vs.

1 The General Manager
Tamilnadu State Transport Corporation
(Salem) Ltd.
Dharmapuri Regional
Bharathipuram
Dharmapuri District

2 The Managing Director
Tamilnadu State Transport Corporation
(Salem) Ltd.
Head Office
No.7, Ramakrishna Road
Salem 626 007 ... Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records relating to proceedings in 361-1361/8992/D6/Tha. A.Po.Ka./2015 dated 26.11.2015 passed by the 1st respondent herein and to quash the same.

For Petitioner .. Mr.V.R.Annagandhi
For Respondents .. Mr.R.K.Gandhi

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner was appointed as a Driver in the service of Tamil Nadu State Transport Corporation (Salem) Limited on 1.9.1992 and he joined duty in Hosur Depot. In the year 1993, he was transferred to Dharmapuri Town Branch and after

bifurcation, he was transferred to Bombidi. The petitioner would further state that on 25.10.2015, he was allotted Route No.201A via Bombidi to Bangalore and the Conductor incharge of the vehicle was Thriu Murugan. The petitioner has driven the vehicle to the distance of 624 Kms., and effected 2 trips (4 singles) from Bangalore to Dharmapuri. He was waiting in Dharmapuri bus stand at about 8.40 p.m for his last trip to Bombidi. At that time Dharmapuri Mofussil bus Depot Manager called upon the petitioner to drive the vehicle to Krishnagiri as a special trip and immediately he informed the said official that he has driven the vehicle from 12.00 midnight and he was behind the wheels more than 20 hours and as such he is tired and unable to drive the bus by way of special trip. Immediately the Divisional Manager asked the Ticket Inspector to give memo to him and it was issued to him and subsequently, the first respondent passed an order 4.8.2014, transferring the petitioner from Bombidi to Hosur and it was put to challenge in W.P.No.23064 of 2014 and it was entertained and an interim order was granted and as such the petitioner continued to work in Bombidi Depot. The petitioner would further state that on account of filing of the writ petition, the respondents got infuriated and therefore placed him under suspension by the impugned order dated 26.11.2015 and challenging the legality of the same, he has come forward to file the present writ petition.

3. The learned counsel for the petitioner, by drawing the attention of the court to the facts and circumstances and other documents, would submit that insofar as the first allegation is concerned that the petitioner has reached the destination one hour prior to the prescribed time, it is the explanation of the petitioner that the supervising official has advised him to take the bus prior to the departure time and he accordingly took the vehicle and further there was no delay in the journey time and as a consequence, he reached the destination one hour early and insofar as the second allegation is concerned that he has failed to adhere to the directions of the supervising official to make a special trip, it is the stand of the petitioner that he has driven the vehicle more than 20 hours and he was tired and therefore failed to comply with the said direction. It is the further submission of the learned counsel appearing for the petitioner that the petitioner is yet to be paid the subsisting allowance and he is put to great prejudice in participating and defending the domestic enquiry and therefore, prays for quashment of the impugned order of suspension.

4. Per contra, the learned counsel appearing for the State Transport Corporation, on instructions, would submit that admittedly the petitioner did not carry out the directions given by the supervising officer and therefore he is rightly placed under suspension and though charge memo has been issued to the

petitioner, he is deliberately not participating and cooperating for early completion of the domestic enquiry and prolongs the same, and hence prays for dismissal of the Writ Petition.

5. This Court has considered the rival submissions and perused the materials placed before it.

6. It is the specific case of the petitioner that since the Supervising Official asked him to take the vehicle one hour prior to the departure time, he took the vehicle and accordingly reached the vehicle one hour early and after that, he was asked by the Depot Manager to make a special trip to Krishnagiri, but he could not do so, because he has become very tired as he has driven the vehicle more than 20 hours.

7. In the considered opinion of the court, the stand of the petitioner cannot be dealt with on merits by this Court, in exercise of the jurisdiction under Article 226 of the Constitution of India, as the discretion to revoke the order of suspension vests with the disciplinary authority. This Court, taking into consideration the plea made by the petitioner, is of the view that the following order would meet the ends of justice:

8. In the result, the Writ Petition is disposed of and the petitioner is at liberty to submit a representation to the first respondent for reviewing the order of suspension, within a period of three weeks from the date of receipt of a copy of this order and upon receipt of the same, the first respondent is directed to consider the said representation on merits and in accordance with law and pass orders as expeditiously as possible and not later than four weeks from the date of receipt of the representation and communicate the decision to the petitioner. No costs. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The General Manager
Tamilnadu State Transport Corporation
(Salem) Ltd.
Dharmapuri Regional
Bharathipuram
Dharmapuri District

2 The Managing Director
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Head Office
No.7, Ramakrishna Road
Salem 626 007

+1cc to Mr.R.K. Gandhi, Advocate, S.R.No.686

+1cc to Mr.V.R. Anna Gandhi, Advocate, S.R.No.149

RJ(CO)
md(09/01/2017)

W.P.No.39936 of 2015



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