

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.7718 of 2016

And

W.M.P. No.6919 of 2016

M. Subramaniam

...Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Transport Department,
Fort St. George, Chennai - 9
2. The Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.
rep. by its Managing Director,
Coimbatore - 641 011
3. The Assistant Manager (Law)-2
The Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.
Coimbatore - 641 011
4. The Branch Manager,
The Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.
Coimbatore - 641 011

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for direction to issue a Writs, order or direction in particular issue a writ of Certiorari calling for the entire records on the file 3rd respondent in connection with the second show cause notice issued by him in vide No.1/G3/2446/TNSTC/15 dated 08.02.2016 and quash the same.

For Petitioner : Mr.S. Saravanan

For Respondents : Mr.R.S. Selvam (For R1)
Government Advocate
M/s. P. Paramasiva Doss
(For R2 to R4)

ORDER

The second cause notice dated 08.02.2016 issued by the third respondent is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner submits that the writ petitioner was appointed as a Conductor in the Tamil Nadu State Transport Corporation (Coimbatore) Ltd., in the year 1987 and now working as Senior Conductor. On account of certain allegations, a charge memo was issued against the writ petitioner in proceedings dated 29.05.2015 and the writ petitioner denied the charges by way of a representation. An enquiry was conducted and the Enquiry Officer submitted his final report on 26.10.2015, enclosing the copy of the enquiry report, a second show cause notice was issued to the writ petitioner in proceedings dated 08.02.2016, seeking his explanations/objections. Even before submitting his explanations/objections to the enquiry report, the writ petitioner has chosen to move this writ petition under Article 226 of the Constitution of India.

3. The writ proceedings can be entertained against the second cause notice, if such a notice was issued by the authority not having jurisdiction or in-competent to issue any such notice. Further, the same can be challenged if allegations of mala fides are raised or if the show cause notice was issued in violation of the statutory rules. Even in case of raising the allegation of mala fides, the authority against whom such an allegation is raised to be impleaded as a party respondent in his personal capacity in the writ proceedings. In the absence of anyone of these grounds, no writ can be entertained in a routine manner against the second show cause notice.

4. The disciplinary proceedings initiated against the writ petitioner is to be completed in all respects and the same should reach its logical decision. Intermittent intervention in disciplinary proceedings are certainly not preferable and the same can be exercised only on exceptional circumstances. In the second cause notice issued in this writ petition, there is no such legal grounds raised and the learned counsel appearing for the writ petitioner states that the respondent-Branch Manager had initiated the disciplinary proceedings on personal vengeance. Though such an oral submission is made, there is no substantial materials available on record to establish that there is some personal vengeance. Further more the authority against whom such statement made also has not been impleaded as party-respondents in the writ proceedings. Thus, this Court is not inclined to consider the merits raised by the writ petitioner in this regard.

5. It is left open to the writ petitioner to submit his explanations / Objections on the enquiry report and only after passing of the final orders, the writ petitioner further has to exercise the appeal remedy available to him under the rules and after exercising the remedy available to him under the rules, then he is at liberty to move this writ petition if he so aggrieved out of any final order if it all passed either by the original authority or by the appellate authority. In this view of the matter, no further adjudication is required on the merits in this writ petition.

6. Accordingly, this writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar [CCC]

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu
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Fort St. George, Chennai - 9
2. The Managing Director,
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Coimbatore - 641 011
3. The Assistant Manager (Law)
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Coimbatore - 641 011
4. The Branch Manager,
The Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.
Coimbatore - 641 011

+1 CC to MR.S.SARAVANAN,Advocate SR.NO.67923
+1 CC to MR.PARAMASIVADDOS, Advocate SR.NO.68084
+1 CC to Government Pleader Advocate SR.NO.68338

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CA (CO)

NR 24/11/2017



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