

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2101 of 2018 and  
WMP.2607/18

P.Duraisamy

..Petitioner

-vs-

1. The Managing Director  
Tamil Nadu State Transport Corporation Ltd.,  
Salem Division  
12, Ramakrishna Salai  
Salem & District
  2. The General Manager  
Tamil Nadu State Transport Corporation Ltd.,  
Salem Division  
12, Ramakrishna Salai  
Salem & District
  3. The Branch Manager  
Mettur Branch  
Tamil Nadu State Transport Corporation  
(Salem Division)  
Mettur
- ..Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the order passed by the second respondent vide his office proceedings Memo No.118-836-D3-Tha.a.po.ka.2011 dated 13.7.2011 and modified by the first respondent vide his office proceedings Koppu No.A118-333-D3-Tha.a.Po.Ka.2011-16 dated 8.3.2016 and quash the same and consequently direct the respondents to pay the monetary benefits in accordance with law within the time fixed by this Hon'ble Court.

For Petitioner :: Mr.I.C.Vasudevan

For Respondents :: Mr.R.K.Gandhi  
Standing Counsel

## ORDER

This writ petition has been directed against the impugned order imposing punishment of stoppage of increment for five years with cumulative effect, which came to be modified into one of stoppage of increment for three years with cumulative effect by the appellate authority.

2. Learned counsel for the petitioner, assailing the impugned order, submitted that when the petitioner was driving the bus bearing No.407 on 1.1.2011 from Chennai to Mettur, near Sundarampalli at Athumedu, met with an accident hitting one motorcyclist, who was travelling on the road without following the rules and coming on the wrong side. When the motorcyclist dashed against the bus at about 13.30 hours, he himself invited the accident. However, a criminal case was registered against the petitioner in Crime No.1 of 2011 on the file of the Inspector of Police, Kanthili Police Station, Vellore District for an offence under Sections 279 and 304(A) of IPC. Finally the said case was also taken up for trial by the learned Judicial Magistrate No.III, Thirupathur, Vellore District and finding that there was no sufficient evidence to establish the charge levelled against the petitioner, he was acquitted honourably. Whereas the second respondent, in the meanwhile, proceeded against the petitioner departmentally by issuing a charge memo dated 12.1.2011 slapping with three charges. The charges would indicate that the petitioner was negligent and careless while driving the bus and caused the accident, taking away the life of a motorcyclist, apart from causing damage to the bus/motorcycle and hardship to the Corporation. Finally the enquiry officer, after completing the enquiry, found him guilty. On the basis of the enquiry report, he was imposed with the punishment of stoppage of increment for five years with cumulative effect by the impugned order dated 12.1.2011 passed by the second respondent. Aggrieved thereby, an appeal was preferred before the first respondent on 2.3.2016, who also, without properly appreciating the real facts, in his proceeding dated 8.3.2016 modified the punishment to one of stoppage of increment for three years with cumulative effect, instead of five years. The learned counsel further submitted that when the enquiry was held, it was established beyond all reasonable doubt that the petitioner was not responsible for causing the accident. This has been further more confirmed in the judgment passed by the learned Judicial Magistrate No.III, Thirupathur in C.C.No.22 of 2011 acquitting the petitioner from all the charges. This being the case of the petitioner, the first respondent ought not to have imposed a harsh punishment.

3. But this Court is not impressed with the arguments advanced to interfere with the impugned punishment for two reasons. Firstly, the petitioner was found guilty by the enquiry officer holding against him that he was responsible for causing the accident while driving the bus bearing No.407 from Chennai to Mettur, near Sundarampalli at Athumedu, in a rash and negligent manner, which resulted in the death of a motorcyclist. This has been accepted by the appellate authority also. However, considering the factor that the punishment of stoppage of increment for five years with cumulative effect was not commensurate to the proved charges, modified the same to three years with cumulative effect. Therefore this Court, sitting under Article 226 of the Constitution, is not inclined to interfere with the impugned punishment. Accordingly, the writ petition is dismissed. Consequently, W.M.P.No.2607 of 2018 is also dismissed. No costs.

Sd/-

Assistant Registrar (CS-ix)

//True Copy//

Sub Assistant Registrar

ss  
To

1. The Managing Director  
Tamil Nadu State Transport Corporation Ltd.,  
Salem Division  
12, Ramakrishna Salai  
Salem, Salem District
2. The General Manager  
Tamil Nadu State Transport Corporation Ltd.,  
Salem Division  
12, Ramakrishna Salai  
Salem, Salem District
3. The Branch Manager  
Mettur Branch  
Tamil Nadu State Transport Corporation  
(Salem Division) Mettur

+1cc to Mr.I.C.VASUDEVAN, Advocate, S.R.No. 7553  
+1cc to Mr.R.K.GANDHI, Advocate, S.R.No. 7881

W.P.No.2101 of 2018

SSI (CO)  
TR(21/02/2018)