

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2437 of 2018

N.R.Kapali

.. Petitioner

-vs-

1. M/s Metropolitan Transport Corporation Ltd.,
rep.by its Managing Director
No.2, Pallavan Salai
Chennai 600 002

2. The Joint Managing Director
Metropolitan Transport Corporation Ltd.,
No.2, Pallavan Salai
Chennai 600 002

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records of the proceedings of the second respondent in memo No.8408/P.B.(D.A6)/ MTC/2007 dated 28.04.2009 and order passed by first respondent in Ref.No.8408/P.B.(D.A6)/MTC/2007 dated 22.12.2017 and quash the same.

For Petitioner :: Mr.D.Soundar Raj

For Respondents:: Mr.A.Antony Arockia Raja

ORDER

This writ petition is directed against the impugned order dated 28.4.2009 passed by the Joint Managing Director of Metropolitan Transport Corporation Limited, the second respondent herein and another order dated 22.12.2017 passed by the Managing Director of Metropolitan Transport Corporation Limited, the first respondent herein.

2. Learned counsel for the petitioner submitted that when the petitioner was serving as a Senior Conductor at Vadapalani depot, on 29.12.2006, when he was on duty in the route bus No.37B/B service, Vehicle No.VPH 242 from Vadapalani to Thiru-Vi-Ka nagar, it was at this point of time the Checking Inspectors boarded the said bus and verified the tickets issued to the passengers and ultimately found a sum of Rs.1.50 as excess from his cash bag. In view of the excess amount found in his cash bag, he was charge sheeted on 9.1.2007. The

allegation shows that he did not cooperate with the Checking Inspectors and also did not fill up the columns in the traffic return. According to the petitioner, without even getting an explanation from the petitioner, the enquiry was conducted. Thereafter, violating the principles of natural justice viz., without even conducting proper enquiry by eliciting evidence from either one of the passengers or even the driver of the bus in respect of the alleged irregularities, the enquiry officer submitted the final report, based on which he was issued with the impugned order dated 28.4.2009 imposing the punishment of stoppage of increment for two years with cumulative effect. When the petitioner preferred an appeal before the first respondent against the said order, the appellate authority, without considering the grievance highlighted in his memorandum of appeal, modified the punishment to one of stoppage of increment for 18 months with cumulative effect. Therefore, the impugned order is liable to be interfered with. Adding further, the learned counsel for the petitioner submitted that a copy of the enquiry report was also not furnished and he was also not issued with the second show cause notice.

3. These arguments do not merit acceptance, for the reason that the impugned order dated 28.4.2009 issued by the second respondent clearly shows that the petitioner was furnished with a copy of the enquiry report. Secondly, when the petitioner alleges before this Court that the principles of natural justice were violated, he has not even enclosed the copy of the memorandum of appeal filed before the first respondent to show that he had taken up all these grounds. When the petitioner has failed to enclose the copy of the memorandum of appeal filed before the first respondent to show that the grounds taken by him before the appellate authority were completely overlooked, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. Consequently, W.M.P.No.2955 of 2018 is also dismissed. No costs.

सत्यमेव जयते

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Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

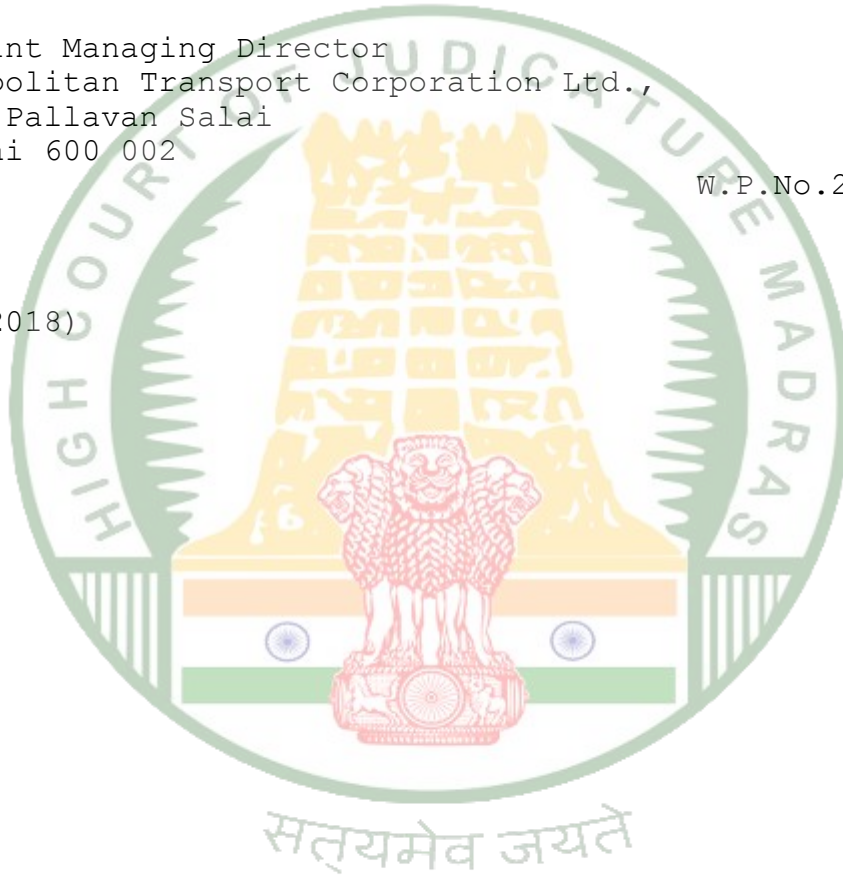
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To

1. The Managing Director
Metropolitan Transport Corporation Ltd.,
No.2, Pallavan Salai
Chennai 600 002
2. The Joint Managing Director
Metropolitan Transport Corporation Ltd.,
No.2, Pallavan Salai
Chennai 600 002

W.P.No.2437 of 2018

(CS-III)
EU(26/02/2018)



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