



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2018

CORAM:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

WEB COPY

W.P. (MD).No.23864 of 2018
and W.M.P. (MD).No.21596 of 2018

T.Paulthurai

.. Petitioner

-Vs-

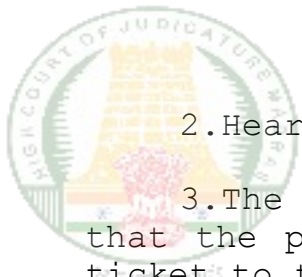
1.The General Manager,
Tamilnadu Transport Corporation,
Tirunelveli Ltd., Nagercoil Region,
Nagercoil, Kanyakumari District.2.The Enquiry Officer,
Tamilnadu Transport Corporation
Tirunelveli Ltd.,
Nagercoil Region,
Nagercoil, Kanyakumari District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent, dated 12.09.2018, along with impugned enquiry report, dated 06.06.2018, of the 2nd respondent and the consequential impugned order of punishment imposed by the 1st respondent, dated 01.11.2018 vide No.5410/Legal - 04/Discipline/TNSTC/2017 and to quash the same as illegal and consequently direct the respondents to regularize the service of the petitioner during the suspension period and to pay all other increments as applicable under law.

For Petitioner : Mr.D.Saravanan
For Respondents : Mr.K.Sathiya Singh
Standing Counsel**ORDER**

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st respondent, dated 12.09.2018, along with impugned enquiry report, dated 06.06.2018, of the 2nd respondent and the consequential impugned order of punishment imposed by the 1st respondent, dated 01.11.2018 vide No.5410/Legal - 04/Discipline/TNSTC/2017 and to quash the same as illegal and consequently direct the respondents to regularize the service of the petitioner during the suspension period and to pay all other increments as applicable under law.



2. Heard the learned counsel for the petitioner.

3. The learned counsel appearing for the petitioner would submit that the petitioner was issued with a charge memo for not issuing ticket to the passengers and misappropriation of a sum of Rs.7/- and having possession of Rs.37/- in excess. He has given his explanation for the said charge dated 30.08.2017 and the enquiry was conducted on 06.06.2018, while so, the first respondent had passed the impugned order intimating the proposed punishment of stoppage of increments for a period of three years with cumulative effect. In the impugned order, the charges held to be proved is entirely different from the charge which he was asked to explain. Pointing out the said error the learned counsel for the petitioner would submit that the impugned order is liable to be quashed.

4. The learned standing counsel appearing for the respondents would submit that as per the service rules, if the petitioner is aggrieved by the proposed punishment, he has right of appeal and also it is only the second notice for proposed punishment and the petitioner was given seven days time to make his objection to the disciplinary authority. If at all there is any error in the finding or illegality in the proposed punishment, he could make representation to the disciplinary authority as informed in the impugned order itself. Instead of making representation against the proposed punishment, the petitioner herein has rushed to this Court.

5. The charge for which the petitioner herein was subjected to departmental enquiry is different from the charge for which he is found guilty and punishment proposed. Therefore, this Court finds that the disciplinary authority is bound to look into the objections raised by the petitioner herein. However, as pointed out by the learned counsel appearing for the respondents, the petitioner herein has rushed to this Court without making any representation to the first respondent regarding the error/illegality/infirmity in the proposed punishment. In such circumstances, instead of keeping the writ petition pending, the first respondent herein is hereby directed to consider the averments made in the affidavit filed in support of this writ petition as his representation for the proposed punishment and pass appropriate order. The petitioner herein is also at liberty to make a fresh representation within a period of seven days from today. After considering the facts and the alleged illegality pointed in the impugned order, appropriate order shall be passed in accordance with law by the first respondent herein.

6. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed.

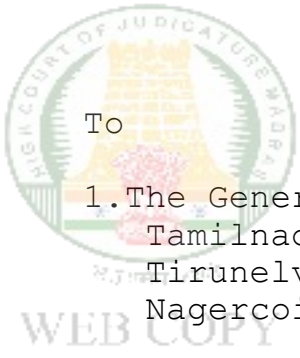
Sd/-

Assistant Registrar(CO)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar(CS-II)



To

1.The General Manager,
Tamilnadu Transport Corporation,
Tirunelveli Ltd., Nagercoil Region,
Nagercoil, Kanyakumari District.

2.The Enquiry Officer,
Tamilnadu Transport Corporation
Tirunelveli Ltd.,
Nagercoil Region,
Nagercoil, Kanyakumari District.

+1cc to Mr.D.Saravanan Advocate in SR.No.98297

+1cc to Mr.K.Sathiya Singh Advocate in SR.No.98214

W.P. (MD) .No.23864 of 2018
03.12.2018

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