



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.08.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.18123 of 2018

and

W.M.P(MD)Nos.16024 and 16025 of 2018

S.Kumaresan,
Son of P.T.Selvaraj,
Employment No.30825, Assistant,
Tamil Nadu State Transport Corporation Limited,
Madurai Division,
Dindigul Region,
Periyakulam Branch,
Theni District.

..Petitioner

Vs

1.The General Manager,
Tamil Nadu State Transport Corporation
Limited., (Madurai) Division,
Dindigul Region,
Bye Pass Road,
Dindigul District.

2.The Branch Manager,
Tamil Nadu State Transport Corporation Limited.,
(Madurai) Division,
Periyakulam Branch,
Periyakulam,
Theni District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the first respondent in Reference:LD5PK:1271, dated 14.06.2018 and to quash the same as illegal and consequently to direct the first respondent to treat the Suspension Period I.e., 18.3.2018 and 19.3.2018 as the Petitioner's duty period.

For Petitioner : Mr.J.Lawrence.

For Respondents : Mr.A.P.Muthupandian
Standing Counsel

**ORDER**

The Petitioner has come forward with this Writ Petition seeking to call for the records pertaining to the impugned order passed by the first respondent in Reference:LD5PK:1271, dated 14.06.2018 and to quash the same as illegal and consequently to direct the first respondent to treat the Suspension Period I.e., 18.3.2018 and 19.3.2018 as the Petitioner's duty period.

2.Mr.A.P.Muthupandian, learned Standing Counsel takes notice for the respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the Petitioner is that he joined the respondents/Corporation as Assistant on 1.1.1995 and he has been discharging his work without any blemish and to the entire satisfaction of the superiors. The further case of the Petitioner is that the Petitioner was suspended on 18.3.2018 and after two days, the said suspension was revoked. It is further submitted that the Petitioner was issued with a charge-memo dated 17.03.2018 and the contents of the charge-memo are completely untrue. However, without conducting an enquiry, punishment of recovery of Rs.300/- is imposed, apart from treating the two days of suspension as ineligible leave to his credit and in case, if such an accident takes place, serious action will be taken and time is granted to prefer an appeal within 60 days from the date of receipt of the impugned order. Challenging the said order, the present Writ Petition is filed.

4.The only point raised by the respondents is that there is an appellate remedy and it is for him to approach the appellate authority and Writ Petition is not a right remedy.

5.Heard both sides.

6.It is not in dispute that the Petitioner was issued with a charge-memo with suspension order on 17.3.2018 and after two days, suspension order was revoked and on 14.6.2018, the impugned order was passed admittedly without conducting any enquiry. It is true that the Petitioner has got an alternative remedy. This Court exercise its jurisdiction, when the impugned order is ab-initio void and that a glance of the order passed would make it very clear that there was no enquiry conducted for the alleged offence and relegating the Petitioner to an alternative remedy is not going to give solution to the issue on hand. Moreover, this Court is empowered to exercise its extra ordinary jurisdiction, as there is no enquiry and punishment order has been imposed only after issuance of the charge-memo. Hence the impugned order is to be interfered with.

7.Accordingly, this Writ Petition stands allowed and the impugned order, dated 14.6.2018 passed by the first respondent is



set aside. Needless to mention that it is for the respondents to proceed with the disciplinary proceedings on the charges dated 17.3.2018, if so advised, in accordance with law. If such enquiry is conducted, it has to be conducted on day-to-day basis, without granting unnecessary adjournments. The Petitioner is also directed to co-operate with the enquiry for the early disposal of the departmental disciplinary proceedings. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The General Manager,
Tamil Nadu State Transport Corporation
Limited., (Madurai) Division,
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Bye-Pass Road,
Dindigul District.

2.The Branch Manager,
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Periyakulam Branch,
Periyakulam,
Theni District.

+1CC to Mr.J.Lawrence, Advocate, SR.No.79337

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ES/SKN/RSK/SAR 1/08.11.2018/3P/4C