

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.28937 of 2012

E.Ravi

.. Petitioner

Vs.

1. The Managing Director,
Metro Transport Corporation,
Pallavan Illam,
Anna Salai, Chennai - 600 002.

2. The General Manager (Administration),
Metro Transport Corporation (Chennai) Limited,
Anna Salai, Chennai - 600 002. .. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari calling for the records relating to order of rejection of appeal preferred by the petitioner in notice No.18557/Sa.Bi(O.Na.) 11/Ma.Po.Ka/2008 dated 23.08.2011 on the file of the 1st respondent confirming the order of discharge from service of the petitioner by the 2nd respondent passed in proceedings No.18557/Sa.Bi.(O.Na.)11/Ma.Po.Ka/2008 dated 28.03.2009 quash the same.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.P.Kannan Kumar

O R D E R

The present Writ Petition is filed for issuance of writ of Certiorari calling for the records relating to order of rejection of appeal preferred by the petitioner in notice No.18557/Sa.Bi(O.Na.)11/Ma.Po.Ka/2008 dated 23.08.2011 on the file of the 1st respondent confirming the order of discharge from service of the petitioner by the 2nd respondent passed in proceedings No.18557/Sa.Bi.(O.Na.)11/Ma.Po.Ka/2008 dated 28.03.2009 quash the same.

2. According to the petitioner he joined as a driver in the 2nd respondent Transport Corporation in January 2008. The petitioner while working as driver in second respondent Transport Corporation, caused an accident on 17.02.2008 while driving the bus bearing route No.114G from Red Hills to Vandalur at Meenambakkam. The pedestrian who was hit by the bus, died after six days inspite of the treatment. Charge Memo was issued to the petitioner and not being satisfied with the explanation given by the petitioner, a domestic enquiry was conducted. The Enquiry Officer held that all the charges were proved. Based on the report of the Enquiry Officer, the second respondent discharged the petitioner from service on 28.03.2009. The appeal filed by the petitioner was dismissed and against that, the present Writ Petition is filed.

3. The learned counsel appearing for the petitioner contended that the charges leveled against the petitioner are baseless. After investigation, the criminal case filed against the petitioner was dropped. The Enquiry Officer without any material has held that the charges leveled against the petitioner were proved. Without giving any opportunity to the petitioner, the second respondent discharged the petitioner from his service and prayed for allowing the Writ Petition.

4. Per contra, the learned counsel appearing for the respondents contended that the criminal proceedings and disciplinary proceedings are entirely different and both can be conducted simultaneously. The strict proof of evidence as required in the criminal case is not necessary in the domestic enquiry. The charges leveled against the petitioner were proved in the domestic enquiry by evidence. The petitioner without approaching the competent authority under Industrial Disputes Act, 1947, has directly approached this Court. The Writ Petition is not maintainable as disputed question of facts cannot be decided in the Writ proceedings and relied on the order of this Court dated 17.06.2009 made in W.P.No.24583 of 2004 and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents and perused the entire materials on record.

6. The learned counsel appearing for the petitioner contended that the Enquiry Officer has held that the charges leveled against the petitioner were proved without there being any evidence and petitioner was not given any opportunity to prove that the charges leveled against the petitioner are baseless. On the other hand, it is the contention of the learned counsel appearing for the respondents that in the domestic enquiry, the petitioner was given ample opportunity and principles of natural

justice were followed. Before the Enquiry Officer, evidence was let in and the respondents proved the charges leveled against the petitioner. From these rival contentions, the issue to be decided is whether the Enquiry Officer had sufficient evidence before him in holding the petitioner guilty of charges leveled against him and that whether sufficient opportunity was given to the petitioner to put forth his case. Both the issues can be decided only based on facts. The disputed question of facts cannot be decided in the Writ proceedings. The petitioner has not given any reason for not availing effective statutory remedy of raising Industrial Dispute as per the provisions of Industrial Disputes Act, 1947 and let in evidence to prove his case. The statement of the petitioner in the affidavit that he has no alternative remedy is not correct. As held by this Court in the order dated 17.06.2009 made in W.P.No.24583 of 2004, the Writ Petition without availing remedy under Industrial Disputes Act, 1947 is not maintainable.

7. In the result, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk

To

1. The Managing Director,
Metro Transport Corporation,
Pallavan Illam,
Anna Salai, Chennai - 600 002.
2. The General Manager (Administration),
Metro Transport Corporation (Chennai) Limited,
Anna Salai, Chennai - 600 002.

+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.57697
+1cc to Mr.S.Duraisamy, Advocate, S.R.No.56445

W.P.No.28937 of 2012

SKV(CO)
CS/06/08/2019