

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08 .02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4863 of 2018 and
WMP.Nos.5997 to 5999 of 2018

A. Irudhayaraj

..Petitioner

vs

1. State of Tamil Nadu,
Represented by the Secretary,
Transport Department,
Fort St. George,,
Chennai- 600 009.

2. The Managing Director,
Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,
Chennai- 600 002.

3. The Senior Deputy Manager,
Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,
Chennai- 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus or any other appropriate writ order or direction in the nature of such writ calling for the records relating to the impugned order issued by the 3rd respondent on 30.06.2017 in Memo No.8911/SaPi(ONA)/MTC/2017 and quash the same and consequently direct the respondents 2 and 3 to allow the petitioner to work as "Helper-non-I.T.I." with back wages.

For Petitioner : Mr. R. Dhamodaran

For Respondent : Mr. R. S. Selvam, Government
Advocate of R1
Ms. Rajini Ramadoss for R2 and R3.

O R D E R

The charge memo dated 30.06.2017 issued to the writ petitioner is under challenge in the present Writ Petition. Though, the present writ petition is filed to quash the charge memo and to direct the respondents 2 and 3 to allow the petitioner to work as "Helper -non-I.T.I." with back wages.

2. Learned counsel for the writ petitioner made an attempt to link all other grievances of the writ petitioner. The grievances of the writ petitioner is that salary for more than 8 1/2 years has not been paid to writ petitioner. He was not allowed to appear before the Medical Board to establish that he is not fit to perform his duties and responsibilities for the post of driver. Secondly, the charge memo is improper and the same is also to be quashed.

3. The learned counsel for the writ petitioner states that pursuant to the interim order granted by this Court directing the Dean of Rajiv Gandhi Government General Hospital, Chennai to constitute a Medical Board within a weeks' time. A Board was constituted and the writ petitioner appeared before the Board and therefore the light duty was provided to the writ petitioner.

4. The learned counsel for the respondent made a submission that the writ petitioner has already been provided with light duty and he is not working as driver. However, with reference to the charge memo, the same relates to the unauthorized absence for the period from 13.06.3017 onwards.

5. Thus, the charges are independent and the respondents have to conduct an enquiry into the allegations set out in the charge memo.

6. This Court is of an opinion that as far as the grievances of the writ petitioner is concerned, he was examined by the Medical Board and a certificate was issued and subsequently with reference to Section 47 of the Act, a light duty has been already provided. Thus, the grievances in respect of providing a light duty had already complied with and the petitioner is now performing the light duty in the respondents office.

7. Secondly, in respect of the salary for the period of unauthroized absence, the learned counsel for the respondents states that an enquiry is to be conducted. It is made clear that if the salary is in relation to the period in which the

writ petitioner served then the same shall be settled by verifying the service records without any lapse of time.

8. Thirdly, in respect of impugned charge memo, this Court is of an opinion that the writ petitioner submits his explanation/objection with reference to the allegations set out in the charge memo and to participate in the enquiry to establish his innocence or otherwise.

9. The grounds raised on merits with reference to the allegations cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. All such facts and circumstances and the defence submitted by the writ petitioner are adjudicated by the competent authorities at the time of conducting enquiry.

10. Thus, the charge memo cannot be quashed by appreciating the merits and demerits of the allegations set out in the impugned charge memo. All such explanation/objection are to be provided before the competent authorities for the purpose of adjudicating and for the conclusion of the departmental disciplinary proceedings. However, the writ petitioner has already submitted the explanation to the charge memo on 31.07.2017, therefore an enquiry is to be conducted in respect of the impugned charge memo dated 30.06.2017 and the disciplinary Authority has to conclude the same at the earliest possible.

11. On perusal of the charge memo, the allegations are in relation to the unauthorized absence. The allegations, counter allegations and the documents are to be enquired into by the Competent Authorities, in view of the fact that the mere charge memo is itself under challenge.

12. This Court is not inclined to consider the relief as such sought for in the present Writ Petition. This apart, the other grievances of the writ petitioner had already been redressed by the respondents. The writ petitioner has been provided with light duty and therefore he has to participate in the departmental disciplinary proceedings for the purpose of concluding the same. The disciplinary Authority have to ensure that the departmental disciplinary proceedings are to be concluded without any undue delay and as expeditiously as possible within a period of three (3) months from the date of receipt of a copy of this order.

13. With these observations, the Writ Petitions stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

mrn/mrm

To

1. The State of Tamil Nadu,
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+2ccs to Mr.R.Dhamodaran, Advocate SR.No.11788,11789

+1cc to Government Pleader SR.No.11815

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SR(CO)
GMY(22/03/2019)

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