

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.34479 of 2019
and
W.M.P.No.35184 of 2019

R.Kumar

...Petitioner

Vs

1. The Puducherry Road Transport Corporation Ltd.,
Rep. by its Board of Directors,
No.4, Ayyanarkoil Street,
Raja Nagar,
Puducherry - 13.
2. The Managing Director,
Puducherry Road Transport Corporation Ltd.,
No.4, Ayyanarkoil street,
Raja Nagar,
Puducherry - 13.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the 2nd respondent in No.248/PRTC/MD/2019/935 dated 04.12.2019 and quash the same as illegal.

For Petitioner : Mr.K.Sasindran

For Respondents: Mr.A.R.Nixon

O R D E R

This writ petition has been filed challenging the impugned order passed by the second respondent, cancelling the promotion of the petitioner and reverting him to the post of Checking Inspector/Time Keeper.

2.It is seen from records that the petitioner was appointed as a Conductor in the respondent Corporation in the year 1987. He was promoted to the post of Checking Inspector Grade II in the year 1993 and he was further promoted to the post of Superintendent (Traffic) in the year 2005. The petitioner was performing his work in the said post. In the mean time, an impugned order came to be passed by the second respondent on 04.12.2019, cancelling the promotion and reverting the petitioner back to the post of Checking Inspector/Time Keeper. The same has now become a subject matter of challenge in the present writ petition.

3.The learned counsel for the petitioner principally attacked the order, on the ground that the order was passed behind the back of the petitioner and the petitioner was not given any opportunity before the order was passed. The learned counsel submitted that the order passed by the second respondent has civil consequences and therefore, an opportunity ought to have been given to the petitioner and in the absence of the same, the order is illegal for violation and principles of natural justice. Therefore, the learned counsel submitted that the order passed by the second respondent requires interference.

4.Mr.A.R.Nixon, learned counsel appearing on behalf of the respondent Corporation submitted that the order was passed by the second respondent based on the report that was received from the office of the Vigilance Commission and it was found that the promotions were granted totally in violation of rules and therefore, the promotion given to the petitioner was cancelled and he was reverted back to the original post. The learned counsel submitted that the promotion that was granted to the petitioner is non-est in the eye of law, since it is in violation of the rules and therefore, giving opportunity to the petitioner only becomes an empty formality. The learned counsel submitted that there are absolutely no grounds to interfere with the impugned order passed by the second respondent and this Court has to take note of the violation that has taken place in the promotion of the petitioner.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.The petitioner was promoted to the post of Superintendent (Traffic) by proceedings dated 13.06.2005. It is also claimed by the petitioner that the promotion was approved and ratified by the first respondent. The petitioner was continuing in this post

till 2019. The impugned order came to be passed by the second respondent only on the basis of a report received from the office of the Chief Vigilance Commission, on the ground that the promotion itself is illegal, since it was given in violation of the rules.

7. Whatever may be reason for the cancellation of the promotion and reverting the petitioner back to the original post, the petitioner ought to have been put on notice. The petitioner has already acquired a right by holding the post of Superintendent (Traffic). While taking away this right, the minimum that is required is to put the petitioner on notice, since any adverse orders will have civil consequences. Therefore, the second respondent ought to have followed the principles of natural justice and afforded an opportunity to the petitioner before passing any order.

8. The writ petition itself was taken up for final hearing at the admission stage, since it was found that the impugned order was passed without giving an opportunity to the petitioner. Therefore, this Court thought it fit to set aside the order and remand the matter back to the second respondent to issue notice to the petitioner and thereafter take a decision in accordance with law.

9. In view of the finding that the impugned order has been passed in violation of principles of natural justice, the impugned order of the 2nd respondent made in No.248/PRTC/MD/2018/935, dated 04.12.2019 is hereby quashed.

10. The matter is remanded back to the file of the second respondent and the second respondent is directed to issue a notice to the petitioner by pointing out the charges against the petitioner and provide the petitioner with the materials in order to enable the petitioner to defend himself. The petitioner shall submit his reply and he shall be afforded with an opportunity to participate in the enquiry. Thereafter, it is left open to the second respondent to pass appropriate orders strictly in accordance with the relevant rules. This exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.

11.This writ petition is allowed with the above directions.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Managing Director,
Puducherry Road Transport
Corporation Ltd.,
No.4, Ayyanarkoil street,
Raja Nagar, Puducherry - 13.

+1cc to Mr.A.R.Nixon, Advocate sr.104303

+1cc to Mr.K.Sasindran, Advocate sr.103814

W.P.No.34479 of 2019
and
W.M.P.No.35184 of 2019

svi(co)
nr 30/01/2020

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