

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE P.D. AUDIKESAVALU

W.A.No.2613 of 2018

M.Thenmozhi

... appellant

versus

The Managing Director,  
Tamil Nadu State Transport Corporation, (VPM) Ltd.  
Villupuram, Tamil Nadu

... Respondent

Appeal filed against the order passed by this Court dated 19.12.2017 passed in W.P.No.33024 of 2017.

W.P.No.33024 of 2017:-

Writ of Certiorarified Mandamus or any other Writ, Order or direction to call for the records of the respondent in respect of the Charge Memo. with No. Ka.Ku.No.429/1329/D6/Tha.Naa.A.Po.Ka/2009 dated 19.06.2009, the enquiry report with No. Nil dated 18.08.2009 which has been informed to the petitioner through the Memo No. dated 6.11.2009, the Appellate Order imposing the punishment with No.Ka.Ku.No.429/1329/D6/Tha.Naa.A.Po.Ka/2009 dated 02.08.2010 and to quash the same and consequently to direct the respondent to restore the basic pay of the petitioner to Rs.15,600/- with effect from the date on which the punishment was imposed with all other consequential benefits including difference of wages and to pass such other or further orders in the interest of Justice and thus render justice.

For appellant : Mr.N.G.R.Prasad,  
for Mr.V.Ajayakumar

For Respondent : Mr.K.Kulandaivelu

J U D G M E N T  
(made by K.K.SASIDHARAN, J.)

The facts :-

The appellant was an employee of Tamil Nadu State Transport Corporation. While she was working as Assistant Engineer, the Corporation initiated disciplinary proceedings against her. The

General Manager of the Corporation passed an order on 29 June 2010, imposing her the punishment of dismissal from service. The said order was challenged before the Managing Director in his capacity as the Appellate Authority. The Managing Director took a lenient view in the matter and modified the punishment into one of reduction of basic pay from Rs.15,600/- to Rs.9,300/- for a period of five years and postponement of future increment for a period of five years. The appellant accepted the said punishment and joined the service.

2. The appellant made yet another appeal to the Managing Director, challenging the punishment of reduction in pay and postponement of increment. The order was modified, and instead of withholding the increment for a period of five years, reduction of basic pay and increment for a period of two years was imposed.

3. The Managing Director who succeeded thereafter, issued a show cause notice to the appellant by proceedings dated 19 November 2013 to show cause as to why the earlier punishment should not be revived. The Managing Director by proceeding dated 16 January 2004, set aside the order dated 17 October 2012 and restored the original punishment.

4. The appellant challenged the charge memo, enquiry report, the order dated 2 August 2010 imposing the punishment, and order dated 16 January 2014, restoring the earlier punishment, before the writ court in W.P.No.2929 of 2014. The Writ Petition was dismissed by order dated 5 March 2014. The said order was challenged before the Division Bench in W.A.No.853 of 2014. The appellant made an endorsement before the appellate court withdrawing the appeal, with liberty to file a review application. The intra court appeal was dismissed with liberty, by order dated 21 July 2014. The appellant has once again filed a Writ Petition in W.P.No.33024 of 2017, challenging the very same charge memo and the order imposing punishment. The Writ Petition was dismissed by the learned Single Judge by order dated 19 December 2017 primarily on the ground that the second Writ Petition is not maintainable. Feeling aggrieved, the appellant has come up with the intra court appeal.

5. We have heard Mr.N.G.R.Prasad, learned counsel for the appellant. We have also heard Mr.K.Kulandaivelu, learned counsel appearing for the Tamil Nadu State Transport Corporation.

Discussion :-

6. The factual matrix indicates that the appellant unsuccessfully challenged the disciplinary proceedings before the writ court. The said order was challenged before the Division Bench.

7. Before the Division Bench, the appellant not pressed the appeal. The writ appeal was dismissed with liberty to file a review petition. However, no such review petition was filed by the appellant invoking the liberty granted by the Division Bench.

8. The appellant without filing review application, filed another Writ Petition challenging the very same proceedings which had become final, on account of the dismissal of the Writ Petition in W.P.No.2929 of 2014.

9. The service regulations contain a provision for filing revision petition before the Tamil Nadu State Transport Corporation. The power is given under Section 24 of the Regulation, to entertain a revision and pass appropriate orders, to modify or set aside the order of punishment or to remit the case for fresh consideration. Clause 26 of the Regulation gives power to the Board to condone the delay.

10. The appellant has been prosecuting the Writ Petition before this court. The Division Bench was pleased to grant her liberty to file a revision petition. The appellant, instead of filing such a revision petition, once again filed a Writ Petition challenging the very same orders which have become final.

11. After hearing the learned counsel for the parties, we are of the view that interest of justice would be sub-served by granting liberty to the appellant to file a revision petition before the Tamil Nadu State Transport Corporation.

12. We permit the appellant to file a revision petition. In case any such revision petition is filed on or before 25 February 2019, the Board of Directors of the Tamil Nadu State Transport Corporation shall consider the same and appropriate orders should be passed on or before 31 March 2019. We make it clear that the revision petition shall not be dismissed on account of limitation in view of the background facts. The Appellate Authority shall consider the entire grounds raised by the appellant and an order shall be passed on merits.

13. The intra court appeal is disposed of with the above direction. No costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//  
Sub Assistant Registrar

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To

1. The Managing Director,  
Tamil Nadu State Transport Corporation, (VPM) Ltd.  
Villupuram, Tamil Nadu.

+1cc to Mr.K.Kulandaivelu, Advocate, S.R.No.11210

+1cc to Mr.V.Ajayakumar, Advocate, S.R.No.10709

W.A.No.2613 of 2018

RK (CO)  
CS/18/02/2019