



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.15572 of 2013

M.P.(MD).No.1 of 2013

WEB COPY

S.Srinivasan

... Petitioner

Vs.

The Management of Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Represented by its General Manager
Trichy Region, Trichy.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records pertaining to the impugned order passed by the respondent in Ref.Th.Aa.Po.Ka./Kumba/Trichy/D6/6899/2012, dated 18.10.2012, quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.A.Rahul

For Respondent : Mr.K.Sathiya Singh

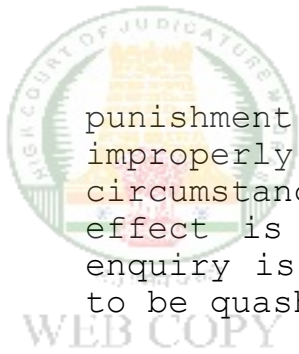
ORDER

This writ petition has been filed to quash the impugned order passed by the respondent in Ref.Th.Aa.Po.Ka./Kumba/Trichy/D6/6899/2012, dated 18.10.2012.

2.The petitioner was appointed as driver in Tamilnadu State Transport Corporation, Kumbakonam Limited with effect from 27.09.2007. The petitioner was placed under suspension after issuing charge memo on 01.08.2012. The charges against the petitioner was that the petitioner discontinued a trip by providing false information about the condition of the bus that the bus in question did not have any pick up and that the petitioner was responsible for revenue loss of Rs.12,700/-. The petitioner submitted his explanation on 11.08.2012 and on 18.08.2012, the order of suspension was revoked. On 18.10.2012, a punishment was imposed on the petitioner stopping his increment for six months with cumulative effect. The grievance of the petitioner is that the punishment was imposed without conducting any enquiry and without giving an opportunity to the petitioner. Hence, the impugned order dated 18.10.2012 is challenged in the writ petition.

3.The learned counsel appearing for the petitioner submitted that the standing rules though does not require an enquiry, the

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punishment of stoppage of increments with cumulative effect has been improperly brought as minor punishment. This Court in similar circumstances, has held that stoppage of increment with cumulative effect is a major punishment and that the order without holding enquiry is in violation of principles of natural justice and liable to be quashed.

4.In a writ petition filed by one S.D.Kamaraj against the respondent herein, a learned single Judge of this Court in similar circumstances, has held that non consideration of explanation to the charges without holding an enquiry is fatal and that the impugned order of punishment of stoppage of increment with cumulative effect cannot be treated as a minor punishment for dispensing with enquiry. Since the stoppage of increment with cumulative effect will have an impact on pay of the workman till his retirement and even thereafter on his pension, the learned single Judge has taken a view that such a punishment should be construed as a major punishment. The learned single Judge has taken the view that even though standing orders do not require an enquiry, principles of natural justice can be read into the standing orders.

5.The learned counsel for the respondent stated that the petitioner has an alternative remedy of approaching the Labour Court and the writ petition is not maintainable without exhausting the alternative remedy. This Court is unable to accept the contention of the learned counsel for the respondent for the simple reason that the order impugned is in violation of principles of natural justice. Inasmuch as, the petitioner was not given an opportunity and no enquiry was held the major punishment imposed on the petitioner is in violation of principles of natural justice. This Court has already dealt with similar situation in the Judgment above referred to. This Court accept the view expressed by this Court in the judgment of this Court in W.P.(MD).No.17463 of 2014.

6.Accordingly, this writ petition is allowed and the impugned order passed by the respondent in Ref.Th.Aa.Po.Ka./Kumba/Trichy/D6/6899/2012, dated 18.10.2012, is set aside. It is open to the respondent to proceed further, if it deems fit, after giving sufficient opportunity to the petitioners and holding enquiry in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)



To

The Management of Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Represented by its General Manager
Trichy Region, Trichy.

+1 CC to Mr.K.SATHIYA SINGH, Advocate (SR-85595[F] dated
06/09/2019)

+1 CC to Mr.A.RAHUL, Advocate (SR-85780[F] dated 06/09/2019)

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05.09.2019

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