



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.15958 of 2013

and

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

WEB COPY

P.Janakiraman

... Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation,
10, By-Pass Road, Madurai.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
10, By-Pass Road, Madurai.

3.The Branch Manager,
Tamil Nadu State Transport Corporation,
Thiruppuvanam Branch,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in O.Na.Thu/D5/Thi.Pu/CR/745, dated 20.04.2013 of the first respondent and quash the same and consequently, to direct the respondents to grant all service and attendance benefits to the petitioner.

For Petitioner : Mr.S.Saji Bino

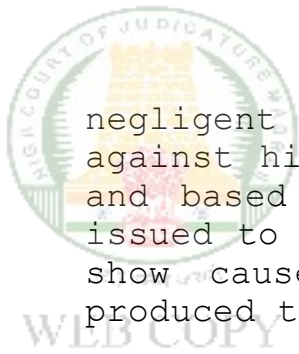
For R1 and R2 : Mr.A.Jeyaram

For R3 : No Appearance

O R D E R

This Writ Petition is filed for issuing a writ of Certiorarified Mandamus, to quash the impugned order, dated 20.04.2013 of the first respondent and for a consequential direction to direct the respondents to grant all service and attendant benefits to the petitioner.

2.The petitioner was working as a Conductor in the respondent Transport Corporation, which is a State Government Undertaking. While the petitioner was working as Conductor, a charge memo was issued stating that he had misappropriated a sum of Rs.22/- from two passengers by not issuing ticket to them, though the petitioner had collected fair from the passengers. However, the charges against the petitioner was that he was



negligent and irresponsible and paved way for a serious complaint against him. It is not in dispute that an enquiry was conducted and based on the enquiry report, a show cause notice was also issued to the petitioner. Though a reply was given to the second show cause notice by the petitioner, the petitioner has not produced the same before this Court.

3.The first respondent, by impugned order, dated 20.04.2013, imposed a punishment of stoppage of increment for a period of two years with cumulative effect. It was further stated that the period of suspension will be treated as the period as leave on loss of pay. After the impugned order was passed, the petitioner gave a representation to the respondents on 27.04.2013, raising a prime objection that the impugned order was served on him without serving the enquiry report to the petitioner. It is also alleged that the enquiry was conducted without giving an opportunity to produce the defence witness on the petitioner's side.

4.Going through the records, this Court is of the view that the punishment was imposed after the issuance of second show cause notice. The explanation offered by the petitioner to the second show cause notice was also considered. The petitioner has raised some grounds challenging the validity of the enquiry report. The fact remains that the petitioner has not raised any objection relating to non-service of enquiry report to the petitioner along with the show cause notice. The copy of reply, dated 15.04.2013, is not furnished in the typed set of papers. The petitioner is now raising contentious factual issues, which should be considered on the basis of material produced by parties. It is not in dispute that the petitioner has an effective alternative remedy of approaching the Labour Court. Having regard to the factual issues, this Court is not inclined to entertain this writ petition.

5.As a result, this writ petition is dismissed with liberty to the petitioner to approach the Labour Court concerned. The period during which the writ petition is pending before this Court shall be excluded for the purpose of limitation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)



TO

1.The General Manager,
Tamil Nadu State Transport Corporation,
10, By-Pass Road, Madurai.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
10, By-Pass Road, Madurai.

3.The Branch Manager,
Tamil Nadu State Transport Corporation,
Thiruppuvanam Branch,
Sivagangai District.

+1 CC to M/s.S. SAJI BINO, Advocate (SR-12171[D] dated 12/09/2019
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cmr

W.P. (MD) No.15958 of 2013
05.09.2019

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