



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP(MD)No.24931 of 2018

WEB COPY

K.Sivaraju

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-pass Road,
Madurai - 16.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Dindigul - 4.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to revise and drop the punishment of 2 years increment cut with cumulative effect passed by the first respondent, dated 31.05.2017 in terms of Clause 61 of 12(3) Settlement, dated 30.09.1992 and in view of the action dropped report, dated 26.05.2013 submitted by the Inspector of Police, Masarpatty Police Station before the Judicial Magistrate, Vilathikulam and in the light of the Judgment of this Court reported in 2018(4) LLN 530 (Mad.).

For Petitioner : Mr.S.Govindan

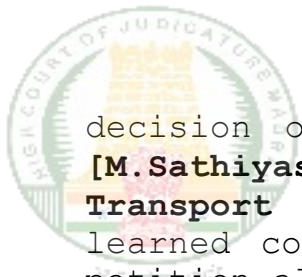
For R - 1 : Mr.AP.Muthu Pandian

For R - 2 : Mr.J.Senthil Kumaraiah

ORDER

The prayer sought for in this Writ Petition is for a Writ of Mandamus, directing the respondents to revise and drop the punishment of 2 years increment cut with cumulative effect passed by the first respondent, dated 31.05.2017 in terms of Clause 61 of 12(3) Settlement, dated 30.09.1992 and in view of the action dropped report, dated 26.05.2013 submitted by the Inspector of Police, Masarpatty Police Station before the Judicial Magistrate, Vilathikulam.

2.The learned counsel appearing for the petitioner submitted that the issue involved in this case has already been settled by the



decision of this Court on 10.07.2018 in **W.P(MD)No.14780 of 2018 [M.Sathiyaseelan Vs. the Managing Director, Tamil Nadu State Transport Corporation (Madurai) Limited, Madurai]** and hence, the learned counsel prayed for passing of similar order in this writ petition also.

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3.The relevant portions of the above said order read as follows:

"10.In clause 61 of the Settlement under Section 12(3) of I.D.Act, between the employer and employees, the following has been provided:

"Disciplinary Action in Accident Cases

61.Where a driver involved in an accident and held guilty of charge in domestic enquiry, subsequently honourably acquitted in the criminal case, the decision in the disciplinary case on the same charge may be revised based on the orders of the Court. However, if the acquittal is by benefit of doubt, no such revision is necessary."

11.Only in order to meet such circumstances, where, even though if a Driver is found guilty of charge on domestic enquiry and if he subsequently acquitted honourably in the criminal case and if decision on the disciplinary proceedings was taken on the same charge, it can be revised based on the orders of the Court. Here, in the case in hand, departmental enquiry conducted only on the same charge of the accident and based on which punishment was imposed against the petitioner. However, the very same accident case, after having investigated by the concerned police, ended in action dropping by final report dated 24.03.2010, where the police has given categorical finding that the petitioner was not guilty. Even in case, where police filed final report and if trial is conducted and ultimately the competent criminal Court acquitted the accused/employee honourably, even in that circumstances, the decision of the competent criminal Court can be taken into account by the disciplinary authority to review or revise the punishment inflicted on the employee pursuant to the domestic enquiry. 12.Here in the case in hand, even after investigation, the police came to a conclusion that action has to be dropped against the petitioner with a clear finding that the petitioner is not guilty. The said final report filed by the police was accepted by the criminal Court and accordingly, the case was closed. Therefore, as per clause 61 of the 12(3) Settlement as has been referred to above, the petitioner's case i.e. the punishment inflicted for him pursuant to the departmental enquiry as modified



by the appellate authority shall be reviewed and in fact revised.

13. Even though, in this regard, the petitioner made a request through his lawyer by legal notice, so far, no action seems to have been taken by the respondents. Therefore, there is every justification on the part of the petitioner to approach this Court, where the petitioner has made out a case.

14. In that view of the matter, this Court is inclined to pass the following order:

"The respondents are hereby directed to revise the punishment inflicted on the petitioner as modified by the appellate authority in view of the action dropped report dated 24.03.2010 filed by the investigation agency, i.e. (police) before the Judicial Magistrate No.1, Dindigul on 24.03.2010 in the light of clause 61 of the Settlement under Section 12(3) of I.D. Act between the employer and employees and pass an order revising the said punishment of the petitioner. The said order shall be passed by the respondents, within a period of six weeks from the date of receipt of a copy of this order. It is needless to mention that once an order passed to that effect revising the said punishment, consequential service benefits on the petitioner, for which, the petitioner is entitled to shall be extended to him.

15. *With the above direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.*"

4. The above decision has not been seriously objected to by the learned respective counsel appearing for the respondents.

5. This Court is of the view that the above order covers the issue involved in this writ petition. Therefore, in the light of the order cited supra, the respondents are directed to revise the punishment inflicted on the petitioner as modified by the appellate authority in view of the action dropped report, dated 26.05.2013 filed by the investigation agency, i.e. (police) before the Judicial Magistrate, Vilathikulam, as per Clause 61 of the Settlement under Section 12(3) of I.D. Act between the employer and employees and pass an order to that effect. The said order shall be passed by the respondents, within a period of six weeks from the date of receipt of a copy of this order. It is needless to mention that once an order is passed for revising the punishment, consequential service benefits entitled to the petitioner shall be extended to him.



6.This writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

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// True Copy //

Sub Assistant Registrar(CS)

To

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye-pass Road,
Madurai - 16.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Dindigul - 4.

+1 CC to M/s.S.GOVINDAN, Advocate (SR-61859[F] dated 23/04/2019)

WP (MD) No.24931 of 2018
23.04.2019

PS

KK/SAR/03.06.2019/4P-4C