



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.20038 of 2019

and

W.M.P. (MD) No.16558 of 2019

R.Malathi

... Petitioner

-Vs-

1.The Additional Chief Secretary to
the Government of Tamil Nadu,
Home Department, (Transport-IIA),
Secretariat, Chennai-600 009.

2.The Transport Commissioner,
Chepauk, Chennai-5.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the impugned order passed by the second respondent in No.Pro.R.No.63776/VA2/2009, dated 13.06.2017 and the consequential impugned order passed by the first respondent in G.O.(D)No.697, Home (Transport IIA) Department, dated 01.07.2019, quash the same.

For Petitioner : Mr.RM.Arun Swaminathan
For Respondents : Mr.C.M.Mari Chellaiah Prabhu,
Additional Government Pleader.

ORDER

The order of the second respondent dated 13.06.2017 and the order of the first respondent dated 01.07.2019 are sought to be quashed in the Writ Petition.

2.According to the petitioner, while she was working as Motor Vehicle Inspector, she was issued with charge memo dated 02.02.2013. After enquiry, the second respondent, by his order dated 13.06.2017, has imposed punishment of stoppage of increment for 6 months without cumulative effect. In the said order, the second respondent has stated that if the petitioner is aggrieved, she can file an appeal before the first respondent. Even though the first respondent is not the appellate authority, the petitioner has filed appeal before the first respondent, raising question of jurisdiction. The first respondent, without considering the question of jurisdiction, has



rejected the appeal filed by the petitioner, by his order dated 01.07.2019. Challenging the said two orders, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner contended that the appointing authority is the Joint Transport Commissioner and the appellate authority is the second respondent. The first respondent is the revisional authority. The second respondent has no jurisdiction to initiate disciplinary proceedings and imposed punishment on the petitioner. Due to the pendency of the disciplinary proceedings initiated by the second respondent, the petitioner has lost her valuable right of appeal and revision and relied on the order of the Principal Seat of this Court dated 24.04.2019 made in W.P.No.10444 of 2016.

4.The learned counsel appearing for the petitioner referred to Rule 14(a) (1) (iv) (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, (hereinafter referred to as 'the Rules') and submitted that the appointing authority is the competent person to initiate disciplinary proceedings and imposed punishment and prayed for allowing this Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents and perused the materials available on record carefully.

6.From the materials on record and the judgment relied on by the learned counsel appearing for the petitioner, it is seen that the Joint Transport Commissioner is the appointing authority and therefore, he is the disciplinary authority. An appeal against the order of the Joint Transport Commissioner lies to the second respondent and revision to the first respondent. In the present case, when the second respondent has initiated disciplinary proceedings and imposed punishment, the petitioner has lost her right of appeal and revision to the competent authority. The very same issue was already considered by the Principal Seat of this Court, in its order dated 24.04.2019 made in W.P.No.10444 of 2016. The Principal Seat of this Court, considering the judgment of the Hon'ble Apex Court reported in **1995 (2) SCC 474 (Surjit Ghosh Vs. Chairman & Managing Director, United Commercial Bank and others)** and Rule 14(a) (1) (iv) (b) of the Rules, has quashed the order of the Transport Commissioner, holding that the Joint Transport Commissioner is the disciplinary authority. In the present case also, the disciplinary authority is the Joint Transport Commissioner and hence, the order dated 24.04.2019 referred to above, is squarely applicable to the facts of the present case. In view of the same, the impugned orders of the second respondent dated 13.06.2017 and the first respondent, dated 01.07.2019 are quashed.



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7.In the result, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1.The Additional Chief Secretary to
the Government of Tamil Nadu,
Home Department, (Transport-IIA),
Secretariat, Chennai-600 009.

2.The Transport Commissioner,
Chepauk, Chennai-5.

+1 CC to Mr.RM.ARUN SWAMINATHAN, Advocate (SR-97003[F] dated
08/11/2019)

+1 CC to SPL GP (SR-97750[F] dated 12/11/2019)

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