

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.11.2020

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.P.No.30365 of 2006

T.K.Palanisamy

..Petitioner

vs

- 1.The Managing Director,
Tamilnadu State Transport
Corporation (Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore - 43.
- 2.The General Manager,
Tamilnadu State Transport
Corporation (Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore - 43.
- 3.The Branch Manager P.R.No.1,
Tamilnadu State Transport
Corporation Limited,
Valparai branch, Valparai,
Coimbatore District.
- 4.The Branch Manager K.Ravi PR.No.10045
Tamilnadu State Transport
Corporation (Coimbatore) Limited,
Karumathampatti Branch,
Avinashi Road, Karumathampatti,
Coimbatore District.
- 5.C.Senthil Kumar PR.No.016706
Assistant Engineer,
Tamilnadu State Transport
Corporation (Coimbatore) Limited,
Karumathampatti Branch,
Avinashi Road, Coimbatore District.
- 6.R.Saminathan.J. 08056
Junior Engineer,
Tamilnadu State Transport
Corporation (Coimbatore) Limited,
Karumathampatti Branch,
Avinashi Road, Coimbatore District.

7.S.Gomathi PR.No.18053,
Senior Clerk,
Tamilnadu State Transport Corporation Limited,
Karumathampatti Branch,
Avinashi Road, Coimbatore District. ..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in pursuant to the order passed by the second respondent dated 23.12.2005 vide No.10/3/6232/TNSTC/05 and quash the same and consequently direct the second respondent to pay the increment along with the accrued increment and further direct the first respondent to conduct the departmental enquiry regarding the show cause notice dated 18.10.2005, 09.11.2005 and 02.01.2006.

For Petitioner : Mr.R.Y.George Williams

For R1 to R4 : Mr.S.Mageshkumar for
Mr.A.Sundaravadhanam

For R5 to R7 : No appearance

O R D E R

The petitioner has come forward with the present writ petition seeking for issuance of a writ of certiorarified mandamus to call for the records in pursuant to the order passed by the second respondent dated 23.12.2005 vide No.1G/3/6232/TNSTC/05 and quash the same and consequently direct the second respondent to pay the increment along with the accrued increment and further direct the first respondent to conduct the departmental enquiry regarding the show cause notice dated 18.10.2005, 09.11.2005 and 02.01.2006.

2.The petitioner is aggrieved by the impugned proceedings of the 2nd respondent dated 23.12.2005 in and by which the petitioner was imposed with punishment of three increments cut. It appears that the petitioner was issued a show cause notice dated 18.10.2005, calling for explanation as to why he had not attended night shift duty on 10.10.2005, 11.10.2005, 22.10.2005 & 23.10.2005. The petitioner has not submitted explanation in time. However, he made representations to the 2nd respondent, requesting to furnish copy of the complaint based on which show cause notice were issued. But the 2nd respondent has given reply on 01.12.2005 stating that the show cause notice issued to the petitioner is sufficient to give reply. Thereafter, the petitioner gave explanation on 17.12.2005 refuting the charge levelled against him. The grievances of the petitioner is that without considering his reply to the show cause notice dated 17.12.2005 and without conducting any enquiry and without providing an opportunity to the petitioner, the 2nd respondent

had issued impugned proceedings imposing punishment of stoppage of three annual increments for three months with cumulative effect.

3.The learned counsel appearing for the petitioner while reiterating the averments made in the Writ Petition would submit that after receipt of the show cause notice, the petitioner made representations to the 2nd respondent to furnish the copy of the complaint and other documents in order to give reply but the petitioner was admittedly not furnished the same. The learned counsel further submitted that the 2nd respondent has not conducted any departmental enquiry and no opportunity was afforded to the petitioner to put forth his defence, the 2nd respondent has issued impugned proceedings imposing punishment, which cannot be sustained in law and the impugned proceedings are liable to be set aside.

4.The learned counsel appearing for the respondents 1 to 4 would submit that a counter affidavit has been filed. But on verification of the entire record, it is revealed that no such counter affidavit has been filed. The matter pertains to the year 2006 and till date the respondents have not chosen to file counter affidavit and it shows the lethargic attitude of the respondents.

5.Admittedly, after issuing show cause notices to the petitioner despite his representations, the petitioner was not furnished copies of the complaint and also other documents which he requested the 2nd respondent in order to give his reply. It is also not in dispute that before issuing the impugned proceedings, no departmental enquiry was conducted and the petitioner was also not given any opportunity to put forth his defence to the charges. Therefore, the impugned proceedings were passed in violation of principles of natural justice, and hence, the impugned proceedings are liable to be quashed. Accordingly, the impugned proceedings are hereby quashed.

6.Accordingly, this Writ Petition is allowed with the impugned proceedings dated 23.12.2005 vide No.10/3/6232/TNSTC/05 is hereby set aside. The 2nd respondent is directed to pay all the consequential benefits to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst. Registrar

//True Copy//

Sub Asst. Registrar

mtl

To

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Corporation (Coimbatore) Limited,
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Karumathampatti Branch,
Avinashi Road, Karumathampatti,
Coimbatore District.

+1cc to the Mr.R.Y.George Williams in Sr.NO.38089

W.P.No. 30365 of 2006

RSU(CO)
VC (19/12/2020)