

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.17638 of 2020 and
W.M.P.Nos.21868, 21869 & 21870 of 2020

T.M.Mathiyazhagan

... Petitioner

-Vs-

- 1.The Managing Director,
Tamil Nadu State Transport Corporation - Salem Region,
No.12, Ramakrishna Road, Salem - 635 007.
- 2.The General Manager,
Tamil Nadu State Transport Corporation - Salem Region,
No.12, Ramakrishna Road, Salem 635 007.
- 3.The Joint Director of Industrial Safety & Health,
Salem.
- 4.The Branch Manager,
Tamil Nadu State Transport Corporation,
Johnsonpettai Branch - II,
Johnsonpettai, Salem 635 008.
- 5.Mr.Raja,
Branch Manager,
Tamil Nadu State Transport Corporation,
Johnsonpettai Branch - II,
Johnsonpettai, Salem 635 008.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned proceedings of the second respondent dated 16.10.2020 in charge memo No.621-11579-D8-TNSTC-2020 and quash the same and consequently, direct the respondents 1-3 to conduct proper enquiry on the petitioner's representations dated 14.10.2020 and 20.10.2020.

For Petitioner : Mr.S.Parthasarathi

O R D E R

This writ petition has been filed to call for the records connected with the impugned proceedings of the second respondent dated 16.10.2020 in charge memo No.621-11579-D8-TNSTC-2020 and

quash the same and consequently, direct the respondents 1-3 to conduct proper enquiry on the petitioner's representations dated 14.10.2020 and 20.10.2020.

2. According to the petitioner, a charge memo dated 16.10.2020, was issued against him charging for unauthorized absence and exhibiting conduct subversive of discipline, lack of devotion to duty. The principle ground on which, the charge memo is being assailed is that the standing orders of the Corporation had been held to be invalid by the Labour Court vide its decision dated 18.09.2017. In the absence of any draft or regular standing orders, it is not open to the Corporation to initiate disciplinary action against the petitioner.

3. The learned counsel for the petitioner vehemently submitted that the action of the Corporation in issuing the impugned charge memo is without the authority of law and therefore, the charge memo has to be held as illegal and void.

4. This Court is unable to appreciate that even in the event of existing standing orders to be held invalid and void, the Management hands cannot be tied from taking any disciplinary action against the employees in the face of overt act of misconduct on the part of the employees. Assuming what is stated in the affidavit is true, yet, it is still permissible for the Corporation to take action against the employees on the basis of the old standing orders till the new standing order are put in place or it is open to the Corporation to follow the model standing orders for the said purpose.

5. Therefore, the contention of the learned counsel for the petitioner that the management is prohibited from taking any action at all against its employees, even in the event of employees committing gross acts of misconduct, is preposterous and unacceptable. Such scenario would be detrimental to public interest and would undermine the effective administration of the establishment.

6. Therefore, the contention raised on behalf of the petitioner is liable to be rejected as being without any merits and substance. In any event, it is always open to the petitioner to raise all objections including the objection as to the jurisdiction and maintainability of the charge memo before the Corporation and this Court is not inclined to entertain this writ petition only on that plea.

7. In view of the above discussion, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gsk
To

- 1.The Managing Director,
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- 4.The Branch Manager,
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Johnsonpettai, Salem 635 008.
- 5.The Branch Manager,
Tamil Nadu State Transport Corporation,
Johnsonpettai Branch - II,
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+2 Ccs to Mr.S.Parthasarathi, Advocate sr 39685.

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PPA(CO)
SP(04/02/2021)

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