

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.18933 of 2020 and
W.M.P.Nos.23498 & 23499 of 2020

Mr.S.Subhaschander

... Petitioner

-Vs-

1.Tamil Nadu State Transport Corporation Ltd.,
Rep by its Assistant Manager (Senior),
Anna Salai, Chennai 600 002.

2.Tamil Nadu State Transport Corporation,
Rep by its Managing Director,
Thiruvallur House,
Pallavan Salai, Chennai.

3.Tamil Nadu State Transport Corporation Ltd.,
Poonamallee Region,
Rep by its General Manager,
Poonamallee Bye Road,
Near Telephone Exchange, Poonamallee 600 056.

... 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 on the file of the first respondent in proceedings No.31822/SP(xe)10/STC/2019 dated 30.07.2020 and to quash the same as illegal, incompetent and without jurisdiction and to further direct the respondents to provide an alternative employment that is best suited.

For Petitioner

: Mr.V.Raghavachari

O R D E R

This writ petition has been filed to call for the records on the file of the first respondent in proceedings no.31822/SP(xe)10/STC/2019 dated 30.07.2020 and to quash the same as illegal, incompetent and without jurisdiction and to further direct the respondents to provide an alternative employment that is best suited.

2. The case of the petitioner is that he was appointed as Driver on 14.08.2007 in the respondent Corporation and while in service, he was affected by Nervous disorder and therefore, he requested the Corporation to provide an alternative employment. In response to his request, the petitioner was also directed to subject himself to medical examination in 2017. Since the alternative employment was not granted to him, the petitioner had approached this Court in W.P.No.16374 of 2019. This Court disposed of the writ petition on 10.09.2019, directing the Corporation to send the petitioner to Medical Board for medical examination and thereafter pass appropriate orders based on the advice of the Medical Board. The petitioner had chosen to file a writ appeal in W.A.No.530 of 2020 and the same was withdrawn by him on 26.08.2020.

3. While matter stood thus, on 30.07.2020, a charge memo was issued directing the petitioner to submit his explanation for his unauthorized absence for more than eight consecutive days, as such absence was in violation of the service regulations of the Corporation. The said charge memo is the subject matter of challenge in this writ petition.

4. The learned counsel for the petitioner would submit that the petitioner's request for grant of alternative employment is pending before the Corporation and therefore, issuance of the charge memo was not called for.

5. In fact, the averments contained in the affidavit are only in relation to the petitioner's request seeking alternative employment in view of his physical disability. Nothing has been specifically stated in relation to the petitioner's explanation to the charge memo. This Court finds that the challenge to the charge memo may not have any bearing on the petitioner's request for alternative employment and in any case, no ground has been raised in the affidavit towards assailing the charge memo.

6. This Court is unable to comprehend as to the basis of the challenge of the charge memo. Even otherwise, a challenge to the charge memo cannot be on the basis of factual averments. Unless proper and acceptable legal grounds supporting the challenge are raised in the affidavit, the writ petition is to be rejected as being without merits.

7. In the circumstances, this Court is unable to entertain this writ petition and hence dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS VI)

/true copy/
Sub Asst. Registrar

gsk

To

- 1.The Assistant Manager (Senior),
Tamil Nadu State Transport Corporation Ltd.,
Anna Salai, Chennai 600 002.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation,
Thiruvallur House,
Pallavan Salai, Chennai.
- 3.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Poonamallee Region,
Poonamallee Bye Road,
Near Telephone Exchange,
Poonamallee 600 056.

+1 cc to Mr.V.Raghavachari Advocate sr41907
+1 cc to Mr.V.Raghavachari Advocate sr41275

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