



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD).No.9536 of 2012

B.Karupppiah

... Petitioner

-Vs-

1.The Management of  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Dindigul Region,  
Rep. by its General Manager,  
Dindigul.

2.The Branch Manager,  
Kodaikanal Branch,  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Dindigul Region,  
Dindigul.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent relating to the impugned charge memos in Ref.SaThu/A1/22 dated 10.08.2011, Ref.SaThu/A1/23 dated 07.09.2011 and Ref.SaThu/A1/557, dated 06.10.2011 and their resulting show-cause notices Ref.SaThu/A1/22 dated 20.12.2011, Ref.SaThu/A1/23 dated 30.04.2012 and Ref.SaThu/A1/557 dated 30.04.2012 passed by the first respondent, quash the same and consequently to direct the respondents to treat the period from 24.06.2011 to 20.09.2011 as the duty period of the petitioner for all purpose and to pay him all benefits including wages and award exemplary cost.

|                 |                         |
|-----------------|-------------------------|
| For Petitioner  | : No Appearance         |
| For Respondents | : Mr.J.Senthilkumaraiah |

**ORDER**

Inspite of the notice issued to the petitioner either to appear in person or through counsel none appeared. Thus the case is taken up for hearing today.

2.The show cause notice as well as the charge memorandum issued are under challenge in this writ petition.

3.The petitioner joined as driver in the respondent transport Corporation and his services were confirmed. The petitioner was promoted as Senior driver and thereafter Special Grade driver and Selection grade driver. He reached the age of superannuation and



retired from service on 31.05.2012. He was issued with a charge memo on 06.10.2011 stating that he was unauthorizedly absent from 25.08.2011 to 20.09.2011 without any prior permission from the authorities concerned. Similar charge memo was issued in respect of other spells also. The petitioner submitted his explanation to the show cause notice and his grievance was that the basic reports were not supplied to him. The grounds raised in the writ petition is that the impugned charge memos were issued consequent to the show cause notices issued to the writ petitioner and as such an action is unfair labour practise and prohibited as per Section 2(ra) r/w 5<sup>th</sup> Schedule of Industrial Dispute Act, punishable under Section 25 A of Industrial Dispute Act. It is stated that the respondent failed to conduct domestic enquiry with regard to the charges, contrarily they have issued the impugned show cause notice and violated the principle of natural justice.

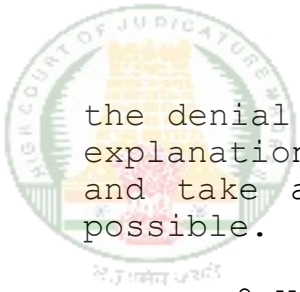
4.The impugned show cause notices are the proposed decisions and no final order has been passed so far, in view of the fact that the petitioner also not defended his case properly. The authorities competent had also issued show cause notice seeking explanation with reference to the proposed punishment to be imposed.

5.No writ can be entertained against the show cause notice or charge memo in a routine manner. The petitioner is expected to submit his explanation and defend his case in the manner known to law. The petitioner is entitled to submit his objections if any with reference to any unfair labour contract for such unauthorised absence or otherwise. The writ petition cannot be entertained as against the show cause notice or charge memo.

6.The writ can be entertained against the charge memo only on certain limited grounds. If the charge memo is issued by the incompetent authorities or it is incapable of proceeding further then alone the writ petition can be entertained. In all other aspects, once a charge memo is issued the employee is expected to submit his explanation and participate in the process of enquiry in order establish his innocence or otherwise.

7.The authorities competent is also expected to conclude the departmental proceedings without causing any undue delay. Long pendency of the disciplinary proceedings will cause prejudice to the employees also. Thus by providing an opportunity to the delinquent officers, the authorities competent must follow the procedure and conduct the disciplinary proceedings. If no enquiry is conducted then enquiry is to be conducted and there after proper appropriate decision has to be taken by following the procedure contemplated under the Discipline and Appeal Rules.

8.This being the procedure to be followed the writ petition against the show cause notice cannot be entertained and the writ against the charge memo cannot be entertained. The petitioner is at liberty to submit all his explanation including



the denial of opportunity and in the event of submission of any such explanation the respondent is directed to consider the explanation and take appropriate decision and pass order as expeditiously as possible.

9. With the above direction the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CSI)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

aav/vsd

**To**

1. The Management of  
Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
Dindigul Region,  
Rep. by its General Manager,  
Dindigul.

2. The Branch Manager,  
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Tamil Nadu State Transport Corporation  
(Madurai) Ltd.,  
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Dindigul.

W.P. (MD) .No.9536 of 2012  
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SJ(CO)  
KB(04.12.2020) 3P 3C