



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.01.2020**

CORAM:

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

W.P. (MD) No.1569 of 2020
and
W.M.P. (MD) No.1278 of 2020

V.Thavam

... Petitioner

/vs./

1.The General Manager,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Virudhunagar Region,
Virudhunagar.

2.The Branch Manager,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Virudhunagar Region,
Rajapalayam Branch,
Rajapalayam,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in pursuant to the impugned charge memo issued by him vide his proceedings in Parvai:Legal/Sa3/4870/6B/19 dated 23/10/2019 and quash the same as illegal and arbitrary in the light of final report filed by the Inspector of Police, Puliyangudi police station before the Learned Judicial Magistrate Court, Sivagiri, Tirunelveli District in FR-357/2019 dated 12/11/2019 and thereby direct the respondents to consider the petitioner for the 2nd Review and yearly increments based on his length of service, within the time limit that may be stipulated by this Court.

For Petitioner

: Mr.G.Thalaimutharasu

For Respondents

: Mr.J.Senthilkumaraiah
Standing Counsel

ORDER

This Writ Petition is filed to quash the charge memo dated 23.10.2019 issued in Parvai:Legal/Sa3/4870/6B/19 by the first respondent and to direct the respondents to consider the petitioner



for the 2nd Review and yearly increments based on his length of service.

2.The grounds raised by the petitioner, challenging the charge memo dated 23.10.2019, cannot be sustained for invoking the extraordinary powers under Article 226 of the Constitution of India.

3.The learned counsel appearing for the petitioner seeks to rely upon a postmortem report of the deceased in the accident, which reveals that he was drunk at the time of accident and in view of the fact that he was driving the TVS XL Moped and hit the back door of the bus, no liability can be fastened on the petitioner herein. In my view, such factual aspects can be established before the disciplinary authority. It is a settled proposition that such factual findings cannot be raised as grounds for the purpose of quashing the charge memo.

4.Nevertheless, if the disciplinary authority is directed to conclude the disciplinary proceedings, within the stipulated time, after giving due opportunity to the petitioner, the ends of justice could be secured.

5.In the light of the above observation, there shall be a direction to the first respondent to conclude all further proceedings pursuant to the charge memo dated 23.10.2019, atleast within a period of 3 months from the date of receipt of a copy of this order, after giving due opportunity of hearing to the petitioner.

6.With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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+1 CC to M/s.J.SENTHIL KUMARAI AH, Advocate (SR-3624[F] dated 29/01/2020)

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-3467[F] dated 28/01/2020)

W.P. (MD) No.1569 of 2020
27.01.2020

JMN(07.02.2020) 2P : 3C

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