



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.3039 of 2020

and

WMP(MD)Nos.2566 and 2567 of 2020

M.Selvadurai

... Petitioner

vs.

1)The Managing Director,
Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam.

2)The General Manager,
Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for records relating to the impugned order passed by the 2nd respondent in TNSTC/Kumba/D02/KuNa1/136/2018 dated 17.01.2019 and quash the same as illegal and consequently directing the respondents to restore the petitioner's salary prior to the impugned order passed by the 2nd respondent.

For Petitioner : Mr.SP.Vijay Nivas
For Respondents : Mr.P.Balasubramanian

ORDER

By consent of both sides, the writ petition itself is taken up for final disposal.

2.This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for records relating to the impugned order passed by the 2nd respondent in TNSTC/Kumba/D02/KuNa1/136/2018 dated 17.01.2019 and quash the same as illegal and consequently directing the respondents to restore the petitioner's salary prior to the impugned order passed by the 2nd respondent.



3.The petitioner would submit that he joined duty in the respondent corporation in the year 1998 and he is working as a Conductor. On 27.04.2018, while he was on duty in a bus bearing registration No.TN-68-N-0676 at Route No.460D Sirkali to Kumbakonam near Panthanalur entrance, the checking inspectors stopped the above bus for inspection and charged the petitioner for non issuing of tickets to two passengers for Rs.7 x 2 = Rs.14/- after receiving a sum of Rs.24/- and returning the balance amount of Rs.10/- and was having a sum of Rs.70/- as excessive amount than the collection amount. As per the Standing Order Nos.24, 28E, 39A, 39B and 40, the offences committed by the employees are grave in nature and punishment for the above offence is dismissal from service. The 2nd respondent has passed the present impugned order of punishment in TNSTC/Kumba/D02/KuNa1/136/2018 dated 17.01.2019, by reducing the petitioner's basic pay by five stages which according to the petitioner is not contemplated in the standing orders. Hence, this writ petition.

4.Learned counsel for the petitioner would rely on the decision of this Court in M.Sankar vs. Tamilnadu State Transport Corporation (Villupuram) Ltd., (W.P.No.6174 of 2009 dated 23.03.2018) and stated that in similar circumstances, the Principal Seat of this Court has quashed the similar punishment of reduction in pay, holding that it was not provided in the service rules and therefore, it cannot be countenanced both on law and on facts. Thus, he would pray for setting aside the impugned order of punishment.

5.Mr.P.Balasubramanian, learned standing counsel who takes notice for the respondents corporation would submit that instead of dismissing the petitioner from service, the 2nd respondent has passed the impugned order imposing the lesser punishment of reduction in basic pay by five stages and would pray that the interference of this Court is not necessary.

6.Heard the learned counsel for the petitioner as well as the respondents.

7.In the decision cited by the learned counsel for the petitioner, **M.Sankar vs. Tamilnadu State Transport Corporation (Villupuram) Ltd., (W.P.No.6174 of 2009 dated 23.03.2018)**, while quashing the similar order of punishment challenged therein, imposing the punishment of reduction in pay, this Court, after considering the punishments for misconduct as provided in the Service Rules, has held that that above punishment is not provided in the Service Rules and therefore, such imposition of punishment is without the authority of law. It is relevant to extract below paragraphs 10 to 13 of the said order:-

10.This Court considered the rival submissions of the learned counsel for parties and perused the materials



and pleadings placed on record. There is considerable force in the contention put forth by the learned counsel for the petitioner that as per the rules, the reduction in pay is not provided as one of the punishments and therefore, the imposition of such punishment is without the authority of law. Moreover, as rightly contended by the learned counsel for the petitioner that it is not open to the management to impose multiple punishments for the same act of misconduct. In this case, not only his pay has been reduced, but there was stoppage of increment for a period of three years with cumulative effect coupled with the fact that the suspension period was ordered to be treated as eligible leave to his credit. Thus the employee was imposed with three punishments, according to the learned counsel for the petitioner.

11.However, this Court is of the considered view that the regularisation of suspension period of an employee depends upon various factors and adjustment of leave to his credit during the period of suspension is one of the methods of regularization of suspension period. Therefore, this cannot be considered as one of punishment. But at the same time, the imposition of punishment of reduction in pay, is not provided for in the service regulations and therefore, such imposition of penalty cannot be countenanced both in law and on facts.

12.For the above said reasons, this Court sets aside the impugned penalty ordered by the respondent in Memo No.318/318/Sa5/TNSTC/06 dated 11.03.2009 only to the extent, the imposition of punishment of reduction in pay by three stages. The other portion of the impugned order regarding stoppage of increment of three years and regularisation of suspension period shall remain as it is.

13.In view of the above, this Court directs the authority to pass suitable order as indicated above and grant attendant benefits to the petitioner on such modification of the penalty. The consequential order shall be passed by the respondent, within a period of eight weeks from the date of receipt of a copy of this order.''

8.In my considered opinion, the above decision is squarely applicable to the facts and circumstances of the present case. Accordingly, the impugned order passed by the 2nd respondent in TNSTC/Kumba/D02/KuNa1/136/2018 dated 17.01.2019, imposing the punishment of reduction in basic pay by five stages, is modified as the punishment of stoppage of increment for three years with cumulative effect and the respondents are directed to pass suitable orders and grant monetary benefits to the petitioner on such modification of the penalty. The consequential order shall be passed



by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed in part. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (Cr1.Side)

// True Copy //

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Sub Assistant Registrar(CS)

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To

- 1)The Managing Director,
Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
TNSTC Head Office,
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Kumbakonam.
- 2)The General Manager,
Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam.
- 3)+1 CC to Mr.SP.VIJAYNIVAS, Advocate
(SR-11929[F] dated 16/03/2020)
- 4)+1 CC to Mr.P.BALASUBRAMANIAN,
Advocate (SR-11903[F] dated 16/03/2020)

ORDER MADE IN
W.P(MD)No.3039 of 2020
DATED : 16.03.2020

TP (06.05.2020) 4P 5C