

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.10998 of 2012

and

M.P.No.1 of 2015

A.G.Annadurai

...Petitioner

Vs

The General Manager,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Zone,
Dharmapuri.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings in No.30/1447/D1/Tha.Na.A.Po.Ka/07 dated 21.04.2008 passed by the respondent and quash the same and consequently direct the respondent to reinstate the petitioner into the service and pay the backwages with effect from 21.04.2008.

For Petitioner : Mr.V.Ayyapparaja

For Respondent : Mr.D.Raghu, Standing Counsel

O R D E R

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein had joined the respondent's Corporation on 20.02.1996 and his services were regularized on 01.07.1997. For the period between 27.01.2007 and 24.07.2007, he was on unauthorized absence, pursuant to which, a show cause notice dated 28.12.2007 was issued to him, calling for his explanation to the unauthorized absence. The petitioner had not replied to the show cause notice and hence, an enquiry was held. Even in the enquiry, the petitioner did not participate. Therefore, the impugned order of dismissal came to be passed on 21.04.2008.

3. The learned counsel for the petitioner would submit that the petitioner had heart ailment, owing to which, he was not in a position to attend the office, as well as the enquiry. It is his submission that after the order of dismissal was passed, he had made several representations requesting the respondent to take a sympathetic view and set aside the order of dismissal.

4. The learned Standing Counsel for the respondent submitted that there was no permission sought for by the petitioner during the period of his absence and therefore, the Corporation had extended him two opportunities by way of a show cause notice and conduct of an enquiry. Since the petitioner had not replied to the show cause notice and did not participate in the enquiry, the order of dismissal was rightly passed.

5. I do not find any error in the decision taken by the Corporation while passing the order of dismissal, since the petitioner had not responded to the show cause notice as well as opted to stay away from the enquiry.

6. Nevertheless, this Court has taken into consideration the 10 years of long service, which the petitioner had put in under the Corporation. It is now submitted before this Court that the petitioner herein is willing to participate in the enquiry and give his explanation for the unauthorized absence. Hence, this Court is of the view that a sympathetic consideration could be extended to the petitioner by way of giving an opportunity to participate in the enquiry. It is made clear that this Court has not found fault with the decision making process of the respondent Corporation and that the matter is being remanded back only on sympathetic consideration.

7. In the light of the above observations, the impugned order of dismissal dated 21.04.2008 as well as the proceedings are set aside. Consequently, the matter is remanded back to the respondent herein for conduct of a fresh enquiry. The petitioner herein shall ensure that he fully co-operates in the enquiry proceedings and in case the respondents are of the view that the petitioner is not co-operating, it is open to them to forthwith conclude the proceedings and take appropriate further course of action. The respondent shall also ensure that the enquiry proceedings are completed within a period of three months from the date of first hearing of the enquiry.

8. The writ petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

sbn/hvk

To

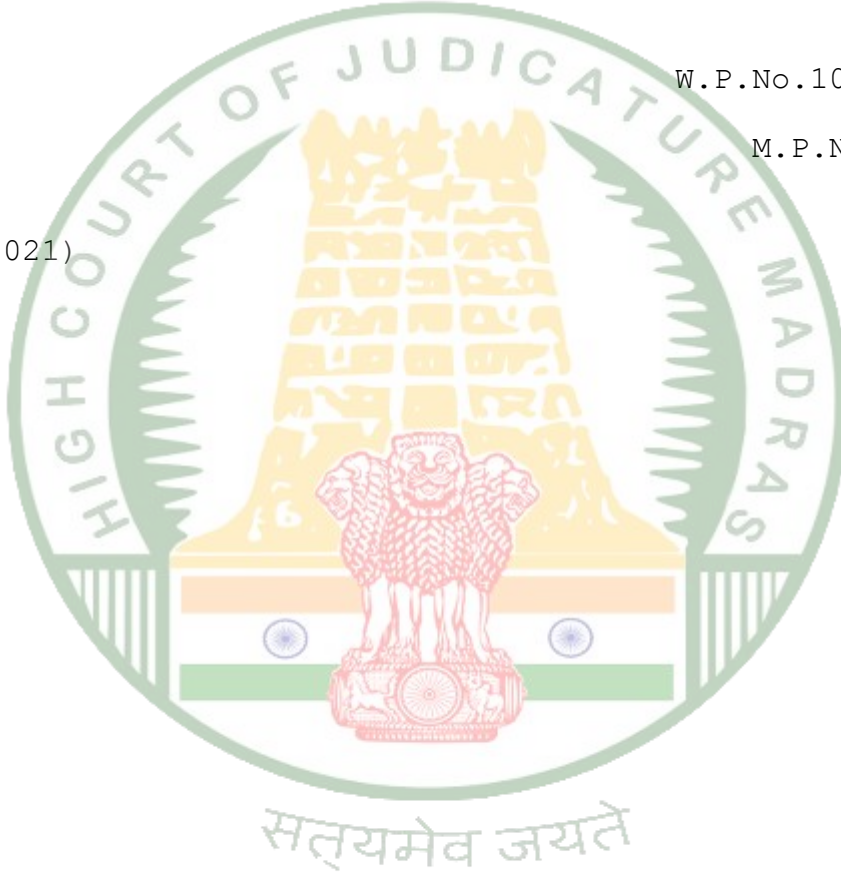
The General Manager,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Zone,
Dharmapuri.

+1 CC to Mr.D. Raghu, Advocate sr 25863.

+1 CC to Mr.R. Bharath Kumar, Advocate sr 26103.

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SRII(CO)
SP(08/07/2021)



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