

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.29594 of 2007

R.Kesavanarayanan

... Petitioner

-Vs-

1. State of Tamil Nadu rep.by
Secretary to Government,
Transport Department,
Fort St.George, Chennai - 600 009.
2. The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Ltd., Villupuram.
3. The General Manager
Tamil Nadu State Transport Corporation
(Villupuram) Ltd., Villupuram.
4. The Assistant Manager / I.C (Personnel)
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Villupuram.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records relating to the proceedings of the third respondent pertaining to his order dated 31.8.2002 and made in Ku.Ka.No.12116/D7/TNSTC/2001-3 and subsequently order passed by the 4th respondent proceedings Na.Ka.No. 49/8190/N1/TNSTC (Villupuram)/2006 dated 22.6.2007 and quash the same.

For Petitioners : Mr.M.Selvam
For Respondents : Mr.K.Magesh,
Special Govt.Pleader-for R1
Mrs.Rita Chandrasekaran
for M/s.Jayesh B Dolia -
for RR 2 to 4

O R D E R

The prayer sought for herein is for a Writ of Certiorari calling for the records relating to the proceedings of the third respondent pertaining to his order dated 31.8.2002 and made in Ku.Ka.No.12116/D7/TNSTC/2001-3 and subsequently order passed by the 4th respondent proceedings Na.Ka.No. 49/8190/N1/TNSTC (Villupuram)/2006 dated 22.6.2007 and quash the same.

2. The petitioner was an erstwhile employee of the Transport Corporation. While he was working, there has been a disciplinary proceedings against him, which ended in order dated 31.08.2002, by which recovery of a sum of Rs.19,000/- was ordered on monthly installment basis at the rate of Rs.500/- per month. The said order has been challenged along with the order passed by the respondents sometime in the year 2007 ie., dated 22.06.2007.

3. Heard the learned counsel appearing for the petitioner, who reiterated the aforesaid facts and seeks the indulgence of this Court.

4. However, Mrs.Rita Chandrasekar, learned Standing Counsel appearing for Transport Corporation, on instructions as well as by relying upon the averments made in the counter affidavit would submit that, though in this writ petition, the order of recovery dated 31.08.2002 is under challenge, subsequently even though the petitioner's suspension has been revoked by the said order dated 31.08.2002, he has not turned up for duty for a long period till March 2003 and therefore, recording the unauthorised absence on the part of the petitioner, the respondents had taken action to remove the petitioner from service by an order dated 12.03.2003, as against which, to the knowledge of the respondents, no proceedings have been initiated or pending in any Court of Law at the instance of the petitioner. Therefore, it can be easily presumed that the order dated 12.03.2003 has become final. Therefore, the learned Standing Counsel for the Transport Corporation would contend that, even assuming that the order dated 31.08.2002 was passed, under which recovery was sought for, definitely that much amount would not have been recovered, as he has been removed from service by order dated 12.03.2003 ie., before 38 months which was given in the said impugned order and moreover, the subsequent order dated 22.06.2007 passed by the respondents, where an amount of Rs.68,736.75/- being the remaining amount to be recovered from the petitioner, was directed to be paid by the petitioner and that order would hold good in view of the order dated 12.03.2003, by which the petitioner was removed from service. Therefore, she would contend that, in view of the subsequent development, where the petitioner was removed from service by order dated 12.03.2003, certainly nothing survives in making any

successful challenge against the order impugned in this writ petition.

5. I have considered the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondents and also perused the materials placed on record.

6. As has been rightly pointed out by the learned Standing Counsel, subsequent to the impugned order dated 31.08.2002, since the petitioner had been allegedly unauthorisedly absent for more than a year, he had been removed from service by orders of the respondents dated 12.03.2003 and the said order has become final to the knowledge of the respondents as no contra view has been projected by the petitioner's side.

7. Once the petitioner has been removed from service on 12.03.2003, unless and until that order is under challenge and the same is reversed, modified or set aside by a competent authority or Court of law, the employer-employee relationship got severed between the petitioner and the respondent and therefore, on that ground itself, the import of the challenge made in this writ petition against the impugned orders would not stand in the legal scrutiny.

8. That apart, since the petitioner had been removed from service and that had become final, in order to recover the loss sustained by the respondent Corporation the order dated 31.08.2002 was passed and in order to recover the remaining amount, the consequential order dated 22.05.2007 was issued and that has also been challenged as consequential proceedings.

9. When the petitioner has chosen to challenge the order dated 31.08.2002 and 22.06.2007, very conveniently the petitioner has omitted to challenge the order of removal dated 12.03.2003. Therefore, on that ground also, the challenge made in this writ petition cannot be sustained. For all these reasons, this Court is inclined to reject this writ petition. Accordingly, it is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Secretary to Government,
Transport Department,
Fort St.George, Chennai - 600 009.
2. The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Ltd., Villupuram.
3. The General Manager
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4. The Assistant Manager / I.C (Personnel)
Tamil Nadu State Transport Corporation
(Villupuram) Limited, Villupuram.

+1cc to Mr.M.Selvam, Advocate, S.R.No.16778.

+1cc to the Government Pleader, S.R.No.17317.

W.P.No.29594 of 2007

PL(CO)
CSR 09.04.2021



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