



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.NO.1622 OF 2021
AND
C.M.P.NO.10125 OF 2021

1. The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
19, Kumbakonam Division - II,
Trichi - 620 001.
2. The General Manager,
Tamil Nadu State Transport
Corporation Limited,
19, Kumbakonam Division - II,
Trichi - 620 001.

... Appellants

.Vs.

1. S.Pugalenth, i,
S/o.Siva Subramonia Pillai,
Staff No.2515,
No.3/46, South Street,
Rajakkamangalam Post,
Kanyakumari District.
2. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Transport (undertakings) Department,
Fort St. George,
Chennai - 600 009.

... Respondents

PRAYER:-

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 10.11.2020 passed by the learned single Judge in W.P.No.41316 of 2006.



PRAYER IN W.P.NO.41316 OF 2006:-

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondents, especially the third respondent relating to his proceedings made in Tha Aa Poka/Trichi/Kumba/D4/1534/91, dated 16/07/2005 as confirmed by the second respondent pursuant to his proceedings made in Tha Aa Poka/Trichi/Kumba/D4/1534/91, dated 16/08/2005 and further confirmed by the first respondent pursuant to his proceedings made in Letter No.2407/C2/2006, dated 06/06/2006 and quash the same as null and void, illegal and invalid and consequently directing the respondents to reinstate the petitioner in service with all service and monetary benefits besides ordering for the damages for the flagrant violation of the order of this Hon'ble Court dated 13/12/2004 made in W.P.No.21808 of 2001 proceeding with the enquiry as their own without either reinstating the petitioner or paying any subsistence allowance therefor apart from ordering for the disbursement of monetary benefits with interest at the rate of 18% per annum from 23/05/1991.

For Appellants : Mr.D.Venkatachalam

For Respondents : Mr.A.Amal Raj [R1]

Ms.E.Indumathi [R2]

Government Advocate

JUDGMENT

[Judgment was delivered by J.SATHYA NARAYANA PRASAD., J]

The above writ appeal was filed challenging the order passed by the learned Single Judge in W.P.No.41316 of 2006 dated 10.11.2020.

2. Heard Mr.D.Venkatachalam, learned counsel for the appellants and Mr.A.Amal Raj, learned counsel for first respondent and Ms.E.Indumathi, learned Government Advocate for second respondent.

3. The first respondent was working as a Junior Engineer (Civil) at Chozhan Roadways Corporation, Kumbakonam. When he was in service, a charge memo was issued to him and subsequently, an Enquiry Officer was appointed and the charges leveled against him were proved and the order was passed on 15.04.1991. The said



order was challenged before this Court in W.P.No.21808 of 2001 and this Court vide order dated 13.12.2004, setting aside the report of the Enquiry Officer and directed to conduct a fresh enquiry and examine three witnesses viz., watchman, load-man and one Thangam and also to give a opportunity to the first respondent to cross-examine those witnesses and dispose the matter in accordance with law.

4. The Enquiry Officer conducted a fresh enquiry and examined five witnesses and marked 14 documents and gave findings that the charges leveled against the first respondent were proved. Based on the enquiry report, the Disciplinary Authority passed an order to remove the first respondent from service. Challenging the order of the Disciplinary Authority, the first respondent filed an appeal before the Appellate Authority and the Appellate Authority dismissed the appeal filed by him and challenging the same he has also filed a revision before the Government. The Government also dismissed the revision. Challenging all the three orders, the first respondent has filed a writ petition in W.P.No.41316 of 2006 before this Court.

5. The charge leveled against the first respondent was that he made an attempt to remove the property viz., 4 G.I. Sheets of the Transport Corporation, against which, the first respondent filed a writ petition in W.P.No.13071 of 1992 and this Court has set aside the same and gave a direction to conduct a fresh enquiry. Out of three witnesses, two witnesses were examined as directed by this Court and stated that the loadman was not examined as he was not available. Eventhough the first respondent has given notice to the appellants as well as the second respondent to produce certain documents. But, the appellants and the second respondent have not produced such documents and also not given any reason for non-production of the documents, which is against the principles of natural justice. The grievance of the first respondent is that he was not given proper opportunity for examination and even in the appeal, the Appellate Authority has not discussed anything about the merits of the case and not discussed about the appreciation of the oral and documentary evidence and had simply endorsed the report of the Enquiry Officer without giving any independent findings. The first respondent has filed an application to produce certain documents, despite that no documents were furnished. The above facts of the case reveal that the enquiry was not conducted in accordance with law by referring material, evidence and the principles of natural justice was also not followed in this case.



6. Thus from the above facts, it is crystal clear and evident that

(i) No documents were furnished to the first respondent during the enquiry despite his application for the same.

(ii) No proper opportunity for examination was given to the first respondent even in the appeal stage.

(iii) The third witness load-man was not examined as directed by this Court.

(iv) No appreciation of documentary or oral evidence.

(v) There is a violation of the principles of natural justice.

7. In view of the above findings/facts of the case, we do not find any ground to interfere with the order passed by the learned Single Judge in W.P.No.41316 of 2006 dated 10.11.2020 and the same is confirmed.

8. Accordingly, the Writ Appeal stands dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Transport (undertakings) Department,
Fort St. George,
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2. The Managing Director,
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+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.63844
+1cc to Mr.A.Amal Raj, Advocate, S.R.No.63567
+1cc to the Government Pleader, S.R.No.53721

W.A.NO.1622 OF 2021 AND
C.M.P.NO.10125 OF 2021

PMK (CO)
PBS/21/12/2021