



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 20448 of 2013

and

M.P (MD) No. 1 of 2013

WEB COPY

A.Senthil Kumar

... Petitioner

-vs-

1.The Managing Director,
The Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division.

2.The General Manager,
The Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the First Respondent in his proceedings No.TA AA PO Ka Kumba/ Trichy/T5/5743/2006 dated 31.12.2010 and quash the same.

For Petitioner : Mr. S.Ramakrishnan
for Mr. B.Jameel Arasu

For Respondents 1 and 2 : Mr. D.Sivaraman

ORDER

Heard Mr. S.Ramakrishnan, Learned Counsel appearing for the Petitioner and Mr. D.Sivaraman, Learned Counsel appearing for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is working as Driver in the Transport Corporation of the Respondents and he was inflicted with the punishment of stoppage of increment for three years with cumulative effect by Order No.தஅபோக/கும்ப/திருச்சி/டி5/5743/2006 dated 10.04.2007 passed by the Second Respondent in respect of the accident said to have been caused by his rash and negligent driving of the vehicle belonging to the Respondent. In the appeal preferred by the Petitioner against that order, the First Respondent by Order No.தஅபோக/கும்ப/திருச்சி/டி5/5743/2006 dated 31.12.2010 reduced the punishment for stoppage of increment from two years to eighteen months and the Petitioner has filed this Writ Petition challenging the said order.



3. The primal contention of the Learned Counsel for the Petitioner is that after the order dated 10.04.2007 passed by the Second Respondent, the Learned Judicial Magistrate-II, Karur, by judgment dated 29.09.2009 in C.C.No.559 of 2006 had acquitted the Petitioner from the same charges in the criminal proceedings holding that the same had not been proved beyond reasonable doubt and that the Petitioner had specifically raised the said contention in the appeal before the First Respondent. It is highlighted that though the First Respondent in the impugned order dated 31.12.2010 has reduced the punishment, he has not adverted to the acquittal of the Petitioner in the criminal case. It is also brought to notice that in clause 23 of the Settlement dated 28.09.1995 entered between the Respondent and Trade Union representing its workmen under Section 12 (3) of the Industrial Disputes Act, 1947, it has been agreed to reconsider the orders of punishment for rash and negligent driving when the concerned workmen are acquitted by the Criminal Court.

4. In view of the aforesaid submissions made, which deserve acceptance, it is incumbent upon the First Respondent to consider the effect of acquittal in the criminal case on the punishment imposed upon the Petitioner, while deciding his appeal. As it is apparent from the face of the record that such exercise had not been carried out before passing the impugned order, it has vitiated the decision-making process and the impugned order dated 31.12.2010 passed by the First Respondent is set aside and the matter is remitted for fresh determination taking into account the aforesaid germane aspects after affording full opportunity of personal hearing to the Petitioner in this regard. The First Respondent shall pass reasoned orders dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken to the Petitioner by 30.09.2021 under written acknowledgement.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM/Ns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

1.The Managing Director,
The Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division.

2.The General Manager,
The Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division.

+1 CC to Mr.D.SIVARAMAN, Advocate SR.No. 20951

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