



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.7297 of 2021

and

W.M.P (MD)Nos.5559, 5560 and 6597 of 2021

WEB COPY

M.Aruldurai

... Petitioner

Vs

The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd,
Nagercoil Region,
Ranithottam,
Nagercoil
Kanyakumari District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Certiorarified mandamus calling for the records from respondent relating to the impugned order of the respondent passed in Ref.No.3756/Legal-3/Discipline/TNSTc/2015, dated 02.03.2021 ordering for reduction of the petitioner's pay by reducing 5 stages / increments for one year, quash the same and consequently, direct the respondent to restore the petitioner's pay and all other benefits, award cost.

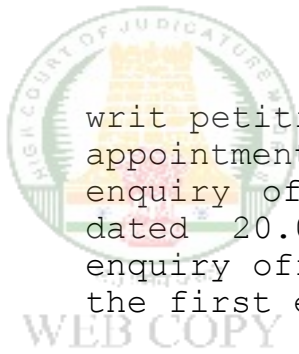
For Petitioner : Mr.R.Murugan
For Respondent : Mr.R.Rajamohan

ORDER

This writ petition is filed as against the order of reduction of increment for one year and for consequential direction to the respondent to award all the pay benefits to the petitioner.

2.The learned Counsel for the petitioner submits petitioner is a Conductor in the respondent Transport Corporation for the past 25 years. Departmental proceedings were initiated against the petitioner by issuing charge memo dated 16.05.2015 alleging misappropriation of Rs.540/-. Subsequently, enquiry officer was appointed, who has conducted enquiry and gave a report that the charges against the petitioner were not proved. However, the respondent appointed another enquiry officer for the very charge memo issued on 16.05.2015.

3.The learned Counsel for the petitioner further submits that the petitioner filed a writ petition in W.P(MD)No.2125 of 2020 challenging the appointment of another enquiry officer. Even in the



writ petition during the course of hearing, it was reported that the appointment of second enquiry officer was withdrawn and a third enquiry officer has been appointed. However, this Court by order dated 20.02.2020 cancelled the appointments of all subsequent enquiry officers and directed the respondent to take action based on the first enquiry officer's report.

4.The learned Counsel for the petitioner also submits that the petitioner has been provided with two show cause notices on 12.11.2020 ad 30.01.2021, for which, the petitioner has also submitted his explanation and sought for the report of the enquiry officer. However, the respondent without even furnishing him a copy of the enquiry report and without considering his explanation, has imposed a punishment of reduction in pay by reducing 5 increments with cumulative effect for one year. Challenging the same the present writ petition is filed.

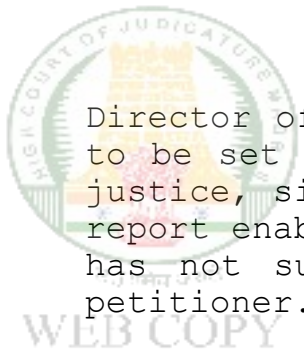
5.The learned Counsel also submits that despite the direction of this Court to proceed with the departmental proceedings based on the report of the first enquiry officer, the respondent without even furnishing him a copy of the report has imposed punishment of increment in reduction. Therefore, the impugned order is liable to be set aside.

6.The learned Standing Counsel appearing for the respondent submitted that as against the order passed by the respondent, appeal remedy is available to the petitioner to file an appeal before the Managing Director of the Transport Corporation. However, the petitioner without even exhausting the appeal remedy, has filed this writ petition. Therefore, the writ petition is liable to be dismissed.

7.This Court paid its anxious consideration to the rival submissions and also perused the materials placed on record.

8.It is seen that departmental proceedings have been initiated against the petitioner and enquiry officer was appointed. The enquiry officer has also submitted a report that the charges levelled against the petitioner were not proved. Subsequent enquiry officers were appointed and those appointments were cancelled by this Court by order dated 20.02.2020 in W.P(MD)No.2125 of 2020 and liberty was granted to the respondent to proceed further with the report of the first enquiry officer. However, it is alleged that without even providing the petitioner with the copy of the enquiry report, punishment of reduction of increment has been awarded. According to the learned Counsel for the petitioner, this act on the part of the respondent would amount to violation of principles of natural justice.

9.Though it is stated that there is appeal remedy available to the petitioner to challenge the impugned order before the Managing



Director of the Transport Corporation, the impugned order is liable to be set aside, in view of the violation of principles of natural justice, since the petitioner has not been provided with the enquiry report enabling him to offer his explanation and the respondent also has not substantiated that they have provided the report to the petitioner.

10. Under such circumstances, the impugned order in Ref.No.3756/Legal-3/Discipline/TNSTc/2015, dated 02.03.2021 is hereby set aside. The matter is remitted back to the respondent for fresh consideration. The respondent shall provide a copy of the enquiry report of the first enquiry officer to the petitioner and provide him an opportunity of hearing enabling to him to offer his explanation and thereafter, take a decision in accordance with law. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

11. The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

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
The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd,
Nagercoil Region,
Ranithottam,
Nagercoil, Kanyakumari District.

+1 CC to M/s.R. MURUGAN, Advocate (SR-35023[F] dated 18/11/2021)
+1 CC to M/s.R. RAJAMOHAN, Advocate (SR-35070[F] dated 18/11/2021)

W. P (MD) No. 7297 of 2021

17.11.2021

AC (CO)

GC (03.12.2021) 3P 4C

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