



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2021**

CORAM:

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

W.P. (MD) No.9592 of 2021

and

W.M.P. (MD) No.7345 of 2021

WEB COPY

M.Vadakaraimuthu

... Petitioner

vs.

1.The Managing Director,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
TNSTC Head Office,
No.27, Railway Station New Road, Kumbakonam.

2.The General Manager,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region,
Maruthupathi,
Managiri, Karaikudi,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the proceedings of the 2nd respondent in Ref.No.TNSTC/TS/T2/170/19 dated 10/11/2020 and quash the same as illegal.

For Petitioner	: Mr.S.P.Vijay Nivas
For Respondents	: Mr.D.Sivaraman
	Standing Counsel

ORDER

Mr.D.Sivaraman, learned Standing Counsel accepts notice on behalf of the respondents.

2.By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

3.Challenging the order passed by the 2nd respondent in Ref.No.TNSTC/TS/T2/170/19 dated 10.11.2020, the present writ petition has been filed.

4.The learned counsel appearing for the petitioner would state that on 07.10.2019, the petitioner was on duty in the transport corporation bus bearing Reg.No.TN 63 N 1741, which was proceeded from Devakottai to Palani. But, due to the technical fault, the driver/the petitioner of the bus stopped the same and intimated the



same to the Branch Manager immediately. However, the petitioner was issued with a charge memo dated 27.11.2019 for the aforesaid incident.

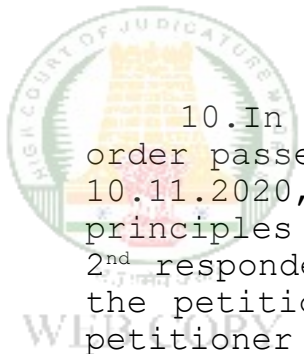
5.The learned counsel would further state that though the petitioner gave an explanation orally that it was only due to the technical fault, the bus was stopped and being a Driver, the petitioner was not aware of such technical fault, to his shock and surprise, the 2nd respondent passed the impugned punishment order dated 10.11.2020, imposing punishment of stoppage of increment for three months without cumulative effect. Challenging the same, the petitioner has preferred an appeal dated 15.12.2020 before the 1st respondent and the same is pending.

6.The learned counsel would further state that the impugned order has been passed without issuing any show cause notice and without conducting any enquiry. Though the petitioner appeared before the authority concerned and submitted his reply to the charge memo in person, the impugned order proceeds as if the petitioner had not replied to the charge memo, which is a violation of principles of natural justice, as such, the impugned order is a non-speaking order. Thus, the learned counsel for the petitioner would state that the impugned order is liable to be set aside.

7.The learned Standing Counsel appearing for the respondents would state that despite the receipt of the charge memo, dated 27.11.2019, since the petitioner did not turn up to give explanation, the impugned punishment order has been passed, imposing punishment of stoppage of increment for three months without cumulative effect, which does not warrant any interference of this Court.

8.Heard the learned counsel on either side and perused the materials available on record.

9.Perusal of the records shows that the impugned order has been passed without conducting any enquiry and without affording any opportunity to the petitioner to put forth his case. Though in the impugned order, it has been stated that the petitioner has not submitted his explanation to the charge memo, it is the specific case of the petitioner that he appeared before the authority concerned in person and gave his reply to the charge memo. It is well settled that a person, against whom punishment is imposed, should be given an opportunity of hearing before passing such order. However, in the case on hand, that is conspicuously absent and further, there is no reason assigned in the impugned order for imposing the aforesaid punishment. It is further well settled that the reason is the soul of the order. Therefore, I am of the considered opinion that the impugned order is liable to be set aside on the ground of violation of principles of natural justice.



10. In fine, this Writ Petition stands allowed. The impugned order passed by the 2nd respondent in Ref.No.TNSTC/TS/T2/170/19 dated 10.11.2020, is hereby set aside on the ground of violation of principles of natural justice and the matter is remanded back to the 2nd respondent to continue with the disciplinary proceedings against the petitioner by following the principles of natural justice. The petitioner is directed to give explanation to the charge memo dated 27.11.2019 through RPAD with acknowledgment card, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such explanation, the 2nd respondent is directed to consider the same and pass appropriate orders on the disciplinary proceedings in accordance with law as expeditiously as possible, preferably, within a period of three months from the date of receipt of the petitioner's explanation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

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