



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.1834 of 2018

and

W.M.P. (MD) .No.1958 of 2018

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Nagarajan

... Petitioner

vs.

1.The Management of State Express
Transport Corporation (Tamil Nadu) Limited,
represented by its Managing Director,
Pallavan Salai, Chennai -2.

2.The General Manager,
State Express Transport Corporation
(Tamil Nadu) Limited,
Pallavan Salai, Chennai-2.

3.The Branch Manager,
State Express Transport Corporation
(Tamil Nadu) Limited,
Madurai Branch, Madurai.

... Respondents

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent in Ref: Aa.No. 049753/TL2/Aa.Vi.Po.Ka./2013, dated 26.12.2013 in imposing the punishment of increment cut for six months with cumulative effect on the petitioner as confirmed by the first respondent in Memo No.031710/L10/SM/SETC/2014, dated 28.01.2015, quash the same.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.K.Sathiya Singh
Standing counsel

O R D E R

Heard Mr.A.Rahul, learned counsel for the petitioner and Mr.K.Sathiya Singh, learned Standing counsel for the State Express Transport Corporation (Tamil Nadu) Limited.

2. The petitioner was working as a Conductor in the respondent Corporation from 13.02.1987. He attained the age of superannuation on 31.05.2017. A charge memo dated 30.08.2013 came to be laid against him alleging that he had abused some employees at Control Section of the Madurai Branch on 03.07.2013 and prevented his co-employees from attending to their duties.



3. Upon receipt of the charge memo, the petitioner put forth a request for being furnished with a copy of the complaint in order that he could effectively respond to and rebut the allegations. The complaint has not been furnished to him till date.

4. Instead, the State Express Transport Corporation issued a notice on 22.10.2013, calling upon him to show cause as to why penalty of increment cut for six months not be imposed. He duly responded once again reporting that he had not been furnished with the basic document and also pointing out that no enquiry had been conducted to ascertain the veracity or otherwise of the complaint, which he vehemently denied.

5. Brushing aside the same, order dated 26.12.2013 came to be passed, confirming the proposal for imposition of punishment of increment cut with cumulative effect for a period of six months. By way of representation, the petitioner appealed against the same before the Management of the Corporation.

6. Since there had been no response to the appeals/representation, a writ petition in W.P.(MD).No.9132 of 2014 has been filed, challenging the order of imposition of punishment. The writ petition came to be dismissed on 10.06.2014, after hearing the submissions on behalf of the petitioner as well as Mr.K.Sathiya Singh, who appeared even then for the Corporation.

7. The Court held that since the appeal / representation of the petitioner was still pending before the Management, it would suffice that a direction be issued to them to consider the appeal and pass orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of that order.

8. It is relevant to note that the Corporation has accepted and acquiesced with that order in full and has not raised any dispute in regard to the maintainability of the appeal filed by the petitioner before the Management. Having done so, the submission made before me now, that the petitioner ought to have approached the Labour Court by way of Industrial Dispute, is clearly an afterthought and I am not inclined to accept the same.

9. If at all the Corporation had been of the view that the dispute in question should be agitated before the Labour Court, it ought to have raised such objection as early as in 2014 when the first writ petition filed by this petitioner was heard by this Court.

10. However, having accepted the order passed by this Court on 10.06.2014, directing them to dispose the appeal of the petitioner, the maintainability of the appeal before the first respondent cannot now be called in question. The argument of the Corporation to the effect that the petitioner ought to have approached the Labour Court is thus rejected.



11. Coming to the rejection order itself which is under challenge in this writ petition, a mere glance at the same would indicate that it is liable to be quashed insofar as it has hardly taken note of the contentions advanced by the petitioner and is a cryptic non-speaking, one liner.

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12. Moreover, the impugned order is dated 28.01.2015 and on a query posed by the Court as to the laches in approaching the Court, learned counsel for the petitioner would point out that the order has been served upon the petitioner only on 03.07.2017, the writ petition coming to be filed on 29.01.2018. This explains the intervening period.

13. Despite a specific direction issued by this Court to consider the appeal of the petitioner on merits, not a single contention of the petitioner has been adverted to, let alone decided, specifically, the submission of the petitioner that he has not been furnished a copy of the complaint based on which the charge memo has been issued.

14. Needless to say a direction from the Court in this regard is hardly even necessary, as it is incumbent upon the appellate authority to have considered the appeal on merits, even otherwise. The impugned appellate order merely reads as follows:

குறிப்பாணை எண் 031710/எல் 10/எஸ் எம் /அவிபோக/2014
நாள் 28.01.2015

பொருள் **WPNo.9132/2014** உயர் நீதிமன்ற ஆணை நாளாக
10.06.2014 பதில் அனுப்புவது சம்பந்தமாக.

.....
தாங்கள் உயர் நீதிமன்றத்தில் தாக்கல் செய்யப்பட்ட **WPNo.9132/2014** நாள்
10.06.2014 படி உங்கள் மனு நாள் 04.03.2014 பரிசீலிக்கப்பட்டது.

உமது மனுவை ஏற்க போதிய முகாந்திரம் இல்லாத காரணத்தால் உமது மேல்முறையீடு
மனு நாள் 04.03.2014 நிராகரிக்கப்படுகிறது.

15. In light of the discussion aforesaid, the impugned order is quashed and this writ petition is allowed. All consequences of the same shall follow and the retirement benefits to which the petitioner is entitled to shall be computed and paid over to him within a period of twelve weeks from today. No costs. Consequently, connected Miscellaneous Petition is closed.

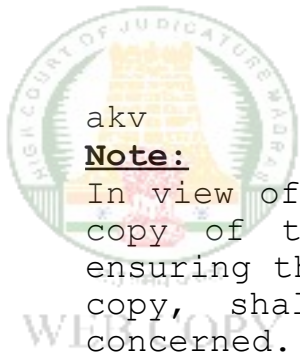
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

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

1.The Management of State Express

Transport Corporation (Tamil Nadu) Limited,
represented by its Managing Director,
Pallavan Salai,
Chennai -2.

2.The General Manager,

State Express Transport Corporation
(Tamil Nadu) Limited,
Pallavan Salai,
Chennai-2.

3.The Branch Manager,

State Express Transport Corporation
(Tamil Nadu) Limited,
Madurai Branch,
Madurai.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-39441[F] dated
20/12/2021)

+1 CC to M/s.A.RAHUL, Advocate (SR-39649[F] dated 20/12/2021)

W.P. (MD) .No.1834 of 2018

17.12.2021

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