



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD)NO.1876 of 2016

V.Nobel Parisu

:Petitioner

.vs.

1.The Managing Director,
Tamil Nadu State Road Transport Corporation Limited,
Madurai Region,
Bye-pass Road,
Madurai.

2.The General Manager,
Tamil Nadu State Road Transport Corporation Limited,
Madurai Region,
Bye-pass Road,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order made in Ref.O.Na.Thu/D4/Pudur/DR/1382, dated 22.07.2014, on the file of the second respondent and to quash the same and consequently to direct the respondents to treat the absence of the Petitioner as on medical leave.

For Petitioner :Mr.B.Jameel Arasu

For Respondents :Mr.A.Jayaram
Standing Counsel

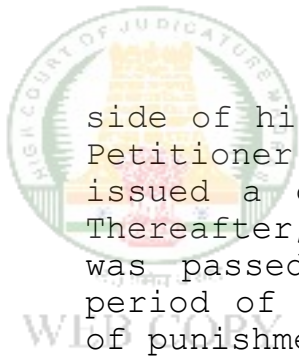
O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the second respondent, dated 22.07.2014 and to direct the respondents to treat the absence of the Petitioner as on medical leave.

2.The brief facts necessary for the disposal of the Writ Petition is as follows:

The Petitioner is a Driver in the respondents / Corporation. While the Petitioner was on duty, there was an accident and a case in Crime No.141/05 was registered on 4.5.2005 before the Vallam Police Station.

3.It is the case of the petitioner that due to the accident, he suffered some serious injuries and there was a fracture on the right



side of his hip. Due to the fact that he was taking treatment, the Petitioner could not report duty and that the respondents have issued a charge-memo alleging that he was unauthorisedly absent. Thereafter, an Enquiry Officer was appointed and the impugned order was passed imposing punishment of stoppage of increment for a period of one year with cumulative effect. Aggrieved by the order of punishment, the Petitioner has preferred the above Writ Petition.

4.The charge against the petitioner was that he was unauthorisedly absent and did not report duty from 31.07.2012. Though the Petitioner had submitted leave application with Medical Certificate, the same was not accepted by the respondents.

5.The learned counsel appearing for the respondents, referring to the factual issues, based on the dates and events given in the counter affidavit, submitted that apart from the misconduct which resulted in punishment, the petitioner has suffered several punishments in his entire service. One of the prime submission of the respondents is that the Writ Petition is not maintainable, as the Petitioner has an alternative remedy of raising the dispute before the Industrial Tribunal. Admittedly, the Petitioner has a cause of action and the order of punishment is one which comes under Section 2(K) of the Industrial Disputes Act.

6.Having regard to the position that the dispute involves questions of fact, this Court is of the view that it will be in the interest of justice to direct the Petitioner to approach the Labour Court for appropriate relief. Since the Petitioner has an effective and efficacious alternative remedy, this Court is not inclined to entertain the present Writ Petition.

7.Accordingly, the Writ Petition stands dismissed, however, with liberty to the Petitioner to approach the Labour Court for appropriate relief. In case, the Petitioner approaches the Labour Court, the Labour Court shall exclude the period during which, the present Writ Petition is pending before this Court. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

+1 CC to M/s.A.JEYARAM, Advocate (SR-31235[F] dated 05/10/2021)

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RD(25.10.2021) 2P 2C

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