



WEB COPY



W.P.Nos.8323 & 8332 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.Nos.8323 & 8332 of 2022

and

W.M.P.Nos.8301 & 8309 of 2022

W.P.No.8323 of 2022

M.Natarajan

.. Petitioner

Vs.

1. The Registrar,
State Human Rights Commission,
No.143, PS Kumarasamy Raja Salai,
Greenways Road, Chennai - 600 028.

2. R.Sakthivel

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records in SHRC No.1923 of 2020, dated 15.02.2022, on the file of the first respondent and quash the same.



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W.P.No.8332 of 2022

WEB C M.Natarajan

.. Petitioner

Vs.

1. The Registrar,
State Human Rights Commission,
No.143, PS Kumarasamy Raja Salai,
Greenways Road, Chennai - 600 028.

2. S.Madhupaiyan

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records in SHRC No.1850 of 2020, dated 21.02.2022, on the file of the first respondent and quash the same.

For petitioner : Mr.A.Sundaravadhanan
in both the W.Ps.

For Respondent 1 : Mr.K.V.Sajeev Kumar
in both the W.Ps. Special Government Pleader

For Respondent 2 : No appearance
in both the W.Ps.

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COMMON ORDER

(Order of the Court was made by T.RAJA, J.)

These two writ petitions have been filed by Mr.M.Natarajan, challenging the correctness of the findings and conclusion reached by the



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State Human Rights Commission, Tamil Nadu (hereinafter referred to as the 'Commission') in its orders dated 15.02.2022 and 21.02.2022, passed in SHRC Nos.1923 of 2020 and 1850 of 2020 respectively.

2. The learned counsel appearing for the petitioner would submit that the petitioner and the complainants/second respondent were working in the Tamil Nadu State Transport Corporation Limited, Kangeyam Branch, Kangeyam. The second respondent in W.P.No.8323 of 2022, Mr.R.Sakthivel was appointed as a driver in the Tamil Nadu State Transport Corporation in the year 2007 and was performing his duties. Likewise, the second respondent in W.P.No.8332 of 2022, Mr.S.Madhupaiyan was appointed as a Conductor in the Tamil Nadu State Transport Corporation and was performing his duties.

3. On 05.12.2019, when both the complainants were sent for training to the State Transport Corporation Training Centre, Bhavani Sagar, with regard to savings of diesel, for 15 days, after attending the said training, they claimed a sum of Rs.160/- per day as fixed by the State Transport Corporation as travelling allowance for trainees. Since the Transport Corporation failed to give the same and paid only Rs.100/- per day for 15



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days, they went to the office of the petitioner herein on 25.03.2019, for claiming the same. When both the complainants claimed the balance amount of Rs.60/-, they were allegedly abused by the petitioner. In view of the alleged abuse made by the petitioner, two complaints have been filed by them before the Commission. In the complaint filed by Mr.S.Madhupaiyan, it is alleged that the petitioner has asked him to enter his office by leaving his chappals outside the room. In the 21st century, no person can be asked to leave the chappals outside a public office. Despite that, the complainant was also abused by the petitioner by using his caste name. Based on the complaints, summons were issued by the Commission to the petitioner.

4. The learned counsel appearing for the petitioner would submit that on receipt of the summons, a detailed reply has been sent by the petitioner in his official capacity as Branch Manager of the Tamil Nadu State Transport Corporation, Kangeyam Branch to the Commission during its sitting at Coimbatore Circuit Bench. All though the petitioner appeared before the Circuit Bench at Coimbatore, no further hearing had taken place and without even giving further date of hearing, the matter was adjourned and subsequently, the Commission went from Coimbatore to Chennai.



5. It is further argued by the learned counsel for the petitioner that the Commission has failed to take into account two important crucial aspects namely (a) a detailed reply has been filed by the petitioner in his official capacity as the Branch Manager of the Tamil Nadu State Transport Corporation, Kangeyam Branch and (b) the petitioner was awaiting for notice on the further date of hearing from the Commission. The Commission, without even issuing any further notice of hearing to be held at Chennai and also overlooking the detailed reply filed by the petitioner, which is also on record, wrongly gave a finding as though the petitioner failed to appear before the Commission that to even after receiving notice of enquiry and that the petitioner also failed to file any reply in support of his submissions.

6. The learned counsel appearing for the petitioner further draw our notice to the detailed reply dated 27.08.2021, filed by the petitioner in his capacity as Branch Manager of Kangayam Branch of Tamil Nadu State Transport Corporation meeting out all the allegations. In his reply, the petitioner had denied all the allegations as frivolous, false and untenable, but no reference whatsoever has been made in the impugned order, which shows total non application of mind on the part of the State Human Rights



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Commission. Secondly, the Commission has also failed to take into account yet another crucial fact that the petitioner was issued with no further notice of hearing to be held at Chennai.

7. Concluding his arguments, the learned counsel appearing for the petitioner would submit that admittedly hearing took place at Chennai and no notice was sent to the petitioner about the further hearing at Chennai. Therefore, the impugned order has been passed behind the back of the petitioner and is liable to be set aside as it violates the principles of Natural Justice. It is a settled principle of law that no one should be condemned without being heard. The Commission to be a guardian of the life and liberty of all the citizens by preaching one thing to others, the Commission has miserably failed to follow the same. Therefore, the impugned order of the Commission is liable to be set aside.

8. In reply Mr.K.V.Sajeew Kumar, learned Special Government Pleader appearing for the first respondent Commission, by opposing the prayer made in the writ petitions, submitted that the argument advanced by the learned counsel for the petitioner that there was a detailed reply filed by the petitioner but that was overlooked by the Commission, cannot be



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accepted because the petitioner has not filed any reply in his individual capacity as it is contended before this Court. The learned counsel appearing for the petitioner submitted that when the petitioner has received summons from the Commission, calling upon him to submit his explanation, the petitioner has prepared a detailed reply and when the summons were issued to the petitioner as the Branch Manager of Kangeyam Branch of the Tamil Nadu State Transport Corporation, in his capacity as the Branch Manager, Kangeyam Branch he has submitted the reply, but this has been completely overlooked. Therefore, the contention made by the learned Special Government Pleader has to be brushed aside and we also find merit in the same.

9. Secondly, when it has been the consistent case of the petitioner that when the Commission had held its hearing at Coimbatore on 06.08.2021, no doubt, the petitioner appeared before the Commission at Coimbatore and subsequently, the Commission moved from Coimbatore to Chennai. When the Commission has held its further hearing at Chennai, there is no proof of issuance of further notice to the petitioner mentioned in the impugned order. This clearly shows that after holding its sitting at Coimbatore when the Commission moved from Coimbatore to Chennai no notice of further



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hearing was given to the petitioner. That apart, had the Commission considered the reply given by the petitioner in his capacity as the Branch Manager of the Kangeyam Branch of the Tamil Nadu State Transport Corporation, the matter would have been considered in a different way.

10. On a perusal of the reply, it is clearly shown that the complainants were already paid a sum of Rs.100/- as travel allowance instead of Rs.160/-. It is not established before the Commission that they are entitled to receive Rs.160/- as travel allowance with any supporting documents. In our considered opinion, the Commission has failed to consider the same.

11. Secondly, the detailed reply filed by the petitioner has been overlooked by the Commission and no evidence whatsoever has been brought to our notice that the Commission has issued further notice of hearing to the petitioner informing the petitioner the date and place of hearing to be held at Chennai.

12. We are unable to find any merit in the findings and conclusion reached by the Commission. Therefore, for the reasons mentioned above, the impugned orders are liable to be set aside and accordingly set aside. Both



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the writ petitions stand allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

(T.R.J.) (K.B.J.)
07.06.2022

Index: Yes / No
kk

To

The Registrar,
State Human Rights Commission,
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