



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.8158 of 2022

and

W.M.P.Nos.8152 & 8154 of 2022

T.M.Roopathy

... Petitioner

Vs.

1. The General Manager,
State Transport Corporation Ltd.,
Chennai.

2. The Branch Manager,
State Transport Corporation Ltd.,
Hosur Depot, Hosur.

3.L.Venkatachalapathy

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records relating to the Disciplinary charges memo in Ku.No.000714/TL5/SETC2022 dated 21.01.2022 issued by the 1st respondent and quash the same.

For Petitioner : Mr.N.Suresh

For Respondents: Mrs.S.Anitha
Special Government Pleader

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, quashing the impugned charge memo dated 21.01.2022.

3. The case of the petitioner in brief:

The petitioner is working as a Conductor under the second respondent. On 26.10.2021, the petitioner was asked by the third respondent to operate Air Conditioner Bus, though he



explained that he had symptoms of fever. In view of the same, the third respondent insisted to do double duty and he was not allowed to sign the attendance. The second respondent gave a complaint on 29.10.2021 stating that the petitioner did not operate UD bus and thereafter, he was temporarily suspended from 11.11.2021 to 05.12.2021 and then, by an order dated 06.12.2021, he was ordered to join duty. The petitioner sent representation to the first respondent on 15.12.2021, stating that due to mental pressure, he was not in a position to join duty and asking the department to allow him to do duty from 10.01.2022. But, the first respondent, issued charge memo dated 21.01.2022, stating that the petitioner failed to do his duty from 06.12.2021 to 20.01.2022. The petitioner sent representation on 03.02.2022 to the first respondent to permit him to join duty and on 08.02.2022, the first respondent has given order to join duty. In such circumstances, the petitioner filed the writ petition to quash the charge memo dated 21.01.2022.

4. The contentions of the petitioner is that the reasons stated by him were not duly considered by the respondents and for no fault on the side of the petitioner, the Department has initiated disciplinary proceedings against him and hence, the charge memo has to be quashed. For the above said grounds, this court is not inclined to quash the charge memo.

5. At this juncture, it is worthwhile to mention that, the Hon'ble Supreme Court, In the case of Union of India vs. Kunishetty Satyanarayana [(2006) 12 SCC 28], held that writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not be ordinarily exercised by quashing a charge sheet. No doubt, in some very rare and exceptional cases, the High Court can quash a charge sheet if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal.

6. In the case of Secretary, Ministry of Defence and others Vs. Prabhaskar Chandra Mirdha, reported in 2012 11 SCC 565, the Apex Court observed as follows:-

10. Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a



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final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court. (Vide State of U.P. v. Brahm Datt Sharma [(1987) 2 SCC 179 -: (1987) 3 ATC 319 : AIR 1987 SC 943] , Bihar State Housing Board v. Ramesh Kumar Singh [(1996) 1 SCC 327] , Ulagappa v. Commr. [(2001) 10 SCC 639 : AIR 2000 SC 3603 (2)] , Special Director v. Mohd. Ghulam Ghouse [(2004) 3 SCC 440 : 2004 SCC (Cri) 826 : AIR 2004 SC 1467] and Union of India v. Kunisetty Satyanarayana [(2006) 12 SCC 28 : (2007) 2 SCC (L&S) 304] .) 11. In State of Orissa v. Sangram Keshari Misra [(2010) 13 SCC 311 : (2011) 1 SCC (L&S) 380] (SCC pp. 315-16, para 10) this Court held that normally a <http://www.judis.nic.in> charge-sheet is not quashed prior to the conducting of the enquiry on the ground that the facts stated in the charge are erroneous for the reason that to determine correctness or truth of the charge is the function of the disciplinary authority. (See also Union of India v. Upendra Singh [(1994) 3 SCC 357 : 1994 SCC (L&S) 768 : (1994) 27 ATC 200] .) 12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge as it does not adversely affect the rights of the delinquent unless it Dr.R.Gowrishankar vs The Secretary on 8 April, 2019 Indian Kanoon - <http://indiankanoon.org/doc/162643770/> 5 is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.

7. In view of the legal principles settled, writ petition



against the charge memo cannot be entertained in a routine manner and judicial review against the charge memo is certainly limited. This being the factum, the writ petitioner has to participate in the process of enquiry and it is for the competent authorities to take steps for an early disposal of the disciplinary proceedings as prolonged pendency is also against the delinquent officials.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mst

To

1. The General Manager,
State Transport Corporation Ltd.,
Chennai.
2. The Branch Manager,
State Transport Corporation Ltd.,
Hosur Depot, Hosur.

+1cc to the Government Pleader, S.R.No.23625

W.P.No.8158 of 2022

PM(CO)
CT 12/05/2022