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W.P. No. 34562 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.34562 of 2022

K.Palanivel

... Petitioner

Vs

- 1 The Chairman and Principal Secretary to Government,
Transport Corporations, Transport Department
Secretariat Chennai-09.
- 2 The Managing Director
Tamil Nadu State Transport Corporation (Salem) Ltd.
No.12 Ramakrishna Road, Salem-636 007
- 3 The General Manager,
Salem Region,
Tamil Nadu State Transport Corporation (Salem) Ltd.
No.12 Ramakrishna Road, Salem-636 007
- 4 The Superintendent (Personnel)
Personnel Section, Head Office,
Tamil Nadu State Transport Corporation (Salem) Ltd.
Salem-7

5 R.Ponmudi

6 D.Laxman

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceeding in Ku.No.E7/0202/TNSTC(Salem)/2022 dated 15.11.2022 on the file of the 4th respondent and the subsequent charge Memo in Ku.No.1355-21894-D2A- TNSTC(Salem)-2022 dated 29.11.2022 on the file of the 3rd respondent and quash the same and direct the respondents to regularise the service of the petitioner from 07.09.2022 to 07.11.2022 totally 62 days as medical leave and earned leave with salary benefits.



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For Respondents : Mr.D.Ravichander,
Special Government Pleader,
for the first respondent

Mr.P.Muthukumar,
State Government Pleader,
for Mr.K.Raja, Standing Counsel,
for respondents 2 to 6.

ORDER

This writ petition has been filed on the apprehension that the impugned proceedings dated 15.11.2022 is a charge memo issued by the respondents. However, learned Government Pleader appearing for the respondents at the outset would submit that the impugned proceedings is only a show cause notice and not a charge memo as apprehended by the petitioner. The said statement is recorded.

2. The petitioner has been called upon to submit his explanation with regard to the unauthorized absence of the petitioner from service. Earlier, the petitioner had approached this Court and filed a writ petition in W.P.No. 25153 of 2022. By order dated 17.10.2022, passed in the said writ petition, the following directions were issued by this court:

"10. After recording the rival submissions, the following directions are issued by this Court:

a) the impugned transfer order dated 01.09.2022 which is the subject matter of this writ petition is hereby quashed.

b) the petitioner is directed to appear before the Medical Board at Namakkal for his



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medical examination with regard to his fitness and if a favourable certificate is given by the Medical Board, Namakkal, the petitioner shall produce the same before the respondent/Transport Corporation and on receipt of the same, the respondent/Transport Corporation as undertaken before this Court shall post the petitioner as an Assistant Engineer at Mettur Branch, within a period of two weeks from the date of production of the favourable medical certificate by the petitioner.

11. In case, a favourable report is given by the Medical Board and based on the favourable report, the petitioner is posted as an Assistant Engineer, Metturdam, the petitioner is permitted to give a representation to the respondent/Transport Corporation seeking for regularisation of the period of service i.e., from 01.09.2022, treating the said period as period of duty/leave and based on the said representation, the respondent shall consider the same on merits and in accordance with law, within a period of four weeks from the date of the said representation. "

3. Learned counsel for the petitioner would submit that the petitioner was not immediately referred to the medical board as directed by this Court in its earlier order dated 17.10.2022 passed in W.P.No. 25153 of 2022. But he was made to wait for ten days and only thereafter he was referred to medical board. According to him a favourable medical report was obtained from the medical board which confirms that the petitioner is medically fit to do the duty of Assistant Engineer.



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4. According to the petitioner, there is no unauthorized absence on his part as claimed by the respondents in the impugned show cause notice.

5. This Court is of the considered view that the petitioner has approached this Court prematurely as no final orders have been passed and a charge memo is yet to be issued against him. Being a show cause notice, the petitioner will have to necessarily submit a reply to the same stating all his objections. Instead of doing the same, the petitioner has approached this Court prematurely.

6. For the foregoing reasons, this writ petition is disposed of by directing the petitioner to submit a reply to the impugned show cause notice dated 15.11.2022 stating all his objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the said reply, the respondents shall consider the same on merits and in accordance with law and decide as to whether any charge memo will have to be issued to the petitioner or not.

7. With the aforesaid directions, the writ petition stands disposed of. No costs. Consequently, connected W.M.P.No. 33992 of 2022 is closed.

23.12.2022

Index : Yes / No
Internet : Yes/ No
mrn

<https://www.mhc.tn.gov.in/judis>



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To

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ABDUL QUDDHOSE, J.

(mrn)

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