



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.2818 and 2819 of 2020

and W.M.P. (MD)Nos.2384 and 2385 of 2020

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J.Suvisesharaj

... Petitioner in both W.Ps.

versus

The General Manager,
Tamilnadu State Transport Corporation
Tirunelveli Ltd.
Tirunelveli Region,
Tirunelveli.

... Respondent in both W.Ps.

W.P(MD)Nos.2818 of 2020: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the respondent in No.D6565/Legal 10/TNSTC/2011 dated 03.07.2012, quash the same.

W.P(MD)Nos.2819 of 2020: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the respondent in No.D7367/Legal 10/Disciplinary Proceeding Section/TNSTC/2011 dated 25.03.2015 and to quash the same.

For Petitioner	:	No appearance
For Respondent	:	Mr.R.Rajamohan, Standing Counsel

COMMON ORDER

These writ petitions are filed as against the punishment imposed by the disciplinary authority, vide orders, dated 03.07.2012 and 25.03.2015 respectively.

2. Since the petitioner in both the writ petition are one and the same, both the writ petitions are taken up for hearing together and disposed of the same by way of a common order.

3. The petitioner is working as a Driver in the respondent Transport Corporation. On 27.08.2011, while he was driving the Bus, he had committed a fatal accident and therefore, the respondent Corporation issued a charge memo dated 03.09.2011 to the petitioner. In conclusion of the departmental proceedings, the petitioner was imposed with a punishment of stoppage of increment for three years, vide order dated 03.07.2012.



4. Another charge memo dated 03.09.2011 has also been issued to the petitioner alleging that a Mini Bus is registered in his name, but, the same was not informed to the Department. A separate departmental proceedings was conducted and vide order dated 25.03.2015, the petitioner was imposed with a punishment of stoppage of increment for five years. Challenging the orders of punishment, the present writ petitions are filed by the petitioner in W.P.(MD) Nos.2818 of 2020 and 2819 of 2020 respectively.

5. Today, when the writ petitions are taken up for hearing, there is no representation for the petitioner.

6. Mr.R.Rajamohan, learned Standing Counsel appearing for the respondent Corporation submits that the main ground taken in these writ petitions is that the criminal case which is basis for the charge memo in C.C.No.77 of 2012 is ended in favour of him. There is no legal bar for the Department to proceed with the departmental proceedings. The Department had conducted separate enquiry and based on the available materials, imposed the punishment of stoppage of increment for three years and five years respectively.

7. The learned Standing Counsel appearing for the respondent Corporation further submits that as against the orders of punishment, the petitioner is having an appeal remedy before the appellate authority, namely, the Managing Director and if any further order is passed by the appellate authority, the petitioner is also having another remedy before the Labour Court by raising Industrial Dispute. According to the learned Standing Counsel, without invoking the alternative remedy, the petitioner has approached this Court by way of filing these writ petitions and therefore, the same is liable to be dismissed.

8. This Court agree with the contentions raised by the learned Standing Counsel for the respondent that without invoking the alternative remedy, the present writ petitions are filed. Since there is no representation for the petitioner, this Court is not inclined to discuss the merits of the case.

9. As against the orders of punishment, the petitioner is having an appeal remedy before the Managing Director and another remedy before the Labour Court.

10. In view of the above discussion, the writ petitions are dismissed with a liberty to the petitioner to file appeals as against the orders impugned before the appellate authority within a period of four weeks from the date of receipt of a copy of this order. If the appeal is preferred within four weeks, the Appellate Authority shall take up the appeal without raising any objection on the merits of the case and decide the appeal independently on its merits.



with available materials on record and pass orders on its merits and in accordance with law as early as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

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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

The General Manager,
Tamilnadu State Transport Corporation
Tirunelveli Ltd.
Tirunelveli Region,
Tirunelveli.

+2 CC to M/s.R.RAJAMOHAN, Advocate (SR-316 & 317[F] dated 05/01/2022)

W.P(MD)Nos.2818 and 2819 of 2020
04.01.2022

KM(CO)

TR(02.02.2022) 3P 4C