



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P (MD) No. 7593 of 2021

and

W.MP (MD) No. 5761 of 2021

S.Selvam

... Petitioner

Vs

1.The Managing Director,
Tamil Nadu State Government Transport Corporation,
Tiruneleli Limit,
KTC Nagar,
Tirunelveli District.

2.The General Manager,
Tamil Nadu State Government Transport Corporation,
Tirunelveli Limit,
Ranithottam,
Nagercoil Region,
Kanyakumari District.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the first respondent in File No.3788/Sa4/Tha.Aa.Po.Ka/Thi.Li/2011, dated 30.09.2020 and quash the same as illegal and consequently to direct the respondents to provide all the attendant monetary benefits attached with the service of the petitioner.

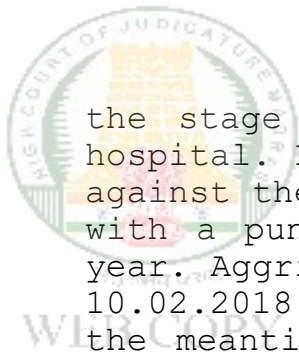
For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.R.Rajamohan

ORDER

This writ petition has been filed as against the order dated 30.09.2020. The first respondent vide impugned order has dismissed the appeal filed by the petitioner, challenging the punishment of increment cut with cumulative effect for three years.

2.The learned Counsel for the petitioner submits that the petitioner is working as a Driver in the respondent corporation. On 27.04.2011 while he was plying stage carrier from Nagercoil to Tirunelveli, a person who came in a two wheeler, bearing registration No.TN 58 N 1119 caused an accident by dashing against



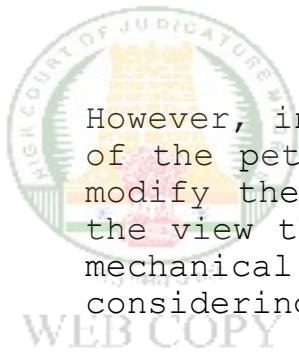
the stage carrier, sustained injury and subsequently died in the hospital. For this incident, departmental proceedings were initiated against the petitioner and in conclusion of the same, he was imposed with a punishment of increment cut with cumulative effect for one year. Aggrieved over the same, the petitioner preferred an appeal on 10.02.2018 before the first respondent the Managing Director. In the meantime a criminal case registered against the petitioner in Crime No.121 of 2011 on the file of the Inspector of Police, Traffic Investigation Wing, Tirunelveli, on the same set of facts, ended in acquittal. Since no order was passed in the appeal the petitioner had preferred a writ petition before this Court in W.P(MD)No.834 of 2020, wherein this Court directed the first respondent to dispose of the appeal within a period three months. However, the first respondent has not passed any orders on the appeal. Hence, the petitioner filed a contempt petition before this Court in Cont.P(MD) No.990 of 2020. Thereafter, the first respondent dismissed the appeal vide impugned cryptic order in a single line. Aggrieved over the same, the present writ petition is filed.

3.The learned Counsel for the petitioner by referring clause 61 of the settlement under Section 12(3) of the ID Act submits that if the departmental proceedings are initiated based on a criminal case and if the criminal case ends in acquittal or is dropped by the Police concerned, disciplinary authority may revise the punishment. However, without considering the same, impugned order came to be passed.

4.Learned Standing Counsel appearing for the respondent corporation submits that clause 61 of the Settlement under Section 12(3) of the ID Act is not applicable to the petitioner, who is working as a Driver. Further the language used in the 12(3) settlement is 'may', therefore, the discretion is vested with the disciplinary authority, who has taken a right decision and imposed a punishment.

5.This Court paid its anxious consideration to the rival submissions and perused the materials placed on record.

6.The petitioner, who is a Driver in the respondent Corporation has been imposed with a punishment of increment cut for one year with cumulative effect. Challenging the same, the petitioner filed an appeal before the first respondent, who has after a direction from this Court in W.P(MD)No.834 of 2020, dated 13.01.2020, dismissed the appeal vide the impugned order dated 30.09.2020. The criminal case registered in Crime No.121 of 2011 on the file of the Inspector of Police, Traffic Investigation Wing, Tirunelveli on the same set of facts, ended in acquittal. Moreover, as per clause 61 of the settlement under Section 12(3) of the ID Act, if the departmental proceedings are initiated based on a criminal case and if the criminal case ends in acquittal or is dropped by the Police concerned, disciplinary authority may revise the punishment.



However, in the impugned order it has been mentioned that the appeal of the petitioner has been considered and there is no provision to modify the punishment imposed on the petitioner. This Court is of the view that the appellate authority has rejected the appeal, in a mechanical manner, without any application of mind and without considering clause 61 of the 12(3) settlement.

7.In the light of the above, the impugned order is set aside and the matter is remanded back to the first respondent, the Managing Director, who shall consider the case of the petitioner in the light of the 12(3) Settlement and pass orders afresh on its own merits and in accordance with law.

8.Accordingly, the writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk

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

1.The Managing Director,
Tamil Nadu State Government Transport Corporation,
Tiruneleli Limit,
KTC Nagar,Tirunelveli District.

2.The General Manager,
Tamil Nadu State Government Transport Corporation,
Tirunelveli Limit,Ranithottam,
Nagercoil Region,Kanyakumari District.

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-313[F] dated 05/01/2022)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-489[F] dated 05/01/2022)

W.P(MD)No.7593 of 2021

SE (CO)

AP(26.02.2022) 3P 5C

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