



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.12323 of 2019

and

W.M.P.(MD) No.9217 of 2019

K.Kalimuthan

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Managri (Po),
Maruthupathi, Karaikudi,
Sivagangai District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the respondent in Ref:TNSTC/TS/T2/18/18, dated 02.05.2019, quash the same as illegal and further direct the respondent to transfer the petitioner at Rameswaran Branch as per the direction issued by the Assistant Commissioner of Labour, Ramanathapuram.

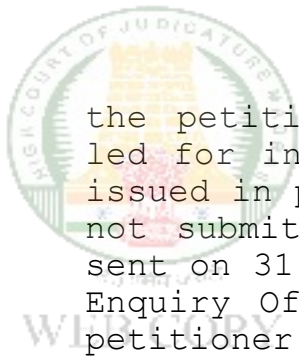
For Petitioner : Mr.G.M.Xavier

For Respondent : Mr.D.Sivaraman

O R D E R

The second show cause notice issued by the respondent in proceedings dated 02.05.2019 is sought to be quashed in the present writ petition.

2.The petitioner states that he was elected as Regional President, Karaikudi Transport Corporation Thozhilalar Urimai Pathukappu Sangam. The petitioner was admitted in the hospital and was taking treatment continuously from 13.10.2018 to 19.10.2018. The petitioner sent a medical certificate and on 20.10.2018, the petitioner reported before the Branch Manager, Rameswaram along with the medical fitness certificate for the purpose of getting work allotment. However, the Branch Manager,did not allot any work to



the petitioner. The petitioner narrates several other incidences led for initiation of disciplinary proceedings. A charge memo was issued in proceedings dated 20.11.2018. However, the petitioner has not submitted his explanation. Thereafter, an enquiry notice was sent on 31.12.2018 and the enquiry was conducted on 14.01.2019. The Enquiry Officer submitted his report on 14.01.2019 itself, as the petitioner has not even submitted his explanation. Thereafter, the respondent issued a show cause notice asking the petitioner to submit his explanation failing which a final decision will be taken in respect of the proposed punishment. Instead of submitting his final explanation, defending the charges, the petitioner has chosen to file this writ petition before this Court.

3.No Writ against a second show cause notice needs to be entertained by the High Court in a routine manner. A writ against a show cause notice may be entertained only if the notice was issued by an incompetent authority having no jurisdiction directly hitting the provisions of rules in force or if an allegation of mala fides is raised against the authority. Even in case of raising an allegation of mala fides, the authority against whom such allegation raised must be impleaded as party respondent in his personal capacity. In all other circumstances, the person against whom the disciplinary proceedings are initiated is expected to defend his case in the manner known to law.

4.In the present case, the petitioner has not submitted explanation even for the charge memo. However, a final opportunity was granted by way of impugned show cause notice to submit his explanation. Even that impugned notice has not been responded. In these circumstances, the petitioner is at liberty to submit his explanation in response to the impugned show cause notice dated 02.05.2019 within a period of two weeks from the date of receipt of a copy of this order and in the event of not receiving any such explanation from the petitioner, the respondent is at liberty to proceed further and conclude the disciplinary proceedings by passing final orders as expeditiously as possible preferably within a period of four weeks from the date of expiry of two weeks granted to the petitioner for submitting explanation.

5.With the above observation and direction, this Writ Petition stands disposed of. No costs. Consequently, miscellaneous petition is closed.

Sd/-

Assistant Registrar (Wrts)

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/ /2022

Sub Assistant Registrar(CS)



To

The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Karaikudi Region, Managri (Po),
Maruthupathi, Karaikudi,
Sivagangai District.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-4877[F] dated 08/02/2022)

W.P.(MD) No.12323 of 2019

07.02.2022

MK/18.02.2022/3P/3C