



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

**W.P(MD) No.10644 of 2015 and
M.P(MD) .No.1 of 2015**

ER.Murugaiyan

:Petitioner

..VS..

1.The Management of Tamil Nadu
Transport Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorari calling for the records pertaining to the punishment of increment cut for one year with cumulative effect imposed by the 2nd respondent in Ref.No.Tha.Aa.Po.Ka/D6/Pa/156/2009, dated 31.12.2009, which was modified by the 1st respondent as punishment of increment cut for six month with cumulative effect by his proceedings Ref.No.Tha.Aa.Po.Ka/D6/Pa/156/2009, dated 28.05.2014 and quash the same.

For Petitioner : Mr. A. Rahul

For Respondents : Mr.D. Sivaraman
Standing Counsel

O R D E R

This Writ Petition is filed to quash the punishment of increment cut for one year with cumulative effect imposed by the 2nd respondent in Ref.No. Tha.Aa.Po.Ka/D6/Pa/156/2009, dated 31.12.2009, which was modified by the 1st respondent as punishment of increment cut for six month with cumulative effect by his proceedings Ref.No.Tha.Aa.Po.Ka/D6/Pa/156/2009, dated 28.05.2014.



2. The petitioner was appointed as Conductor in the first respondent Corporation on 18.05.2007 and the charge memo was issued alleging the petitioner is the reason for the injury sustained by the passenger, when he tried to get down from the bus. The allegation against the petitioner is that the petitioner failed to stop the bus even when the passenger gave a signal to alight from the bus, and sustained injuries. The petitioner submitted an explanation denying the allegation.

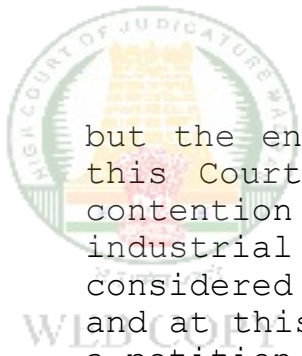
3. The contention of the petitioner is that he gave a signal to the driver to stop the bus, when the driver tried to stop the bus, the passenger alighted from the bus, even without giving any signal and thereby, he sustained injuries. Since the respondents have not satisfied with the explanation the second respondent issued a show cause notice dated 19.09.2009 and the petitioner has submitted an explanation on 22.10.2009. By the impugned order passed by the second respondent, the punishment of stoppage of increment for one year with cumulative effect was imposed. The petitioner preferred an appeal before the first respondent and the punishment was modified vide order dated 28.05.2014 as stoppage of increment for the period of six months with cumulative effect.

4. The contention of the petitioner is that the second respondent without conducting enquiry straight away produced the impugned order. Then stoppage of increment for one year with cumulative effect was modified by the appellate forum. The further contention of the petitioner is that, in the impugned order no reason was assigned.

5. The respondents have filed counter stating in the standing order the stoppage of increment for one year with cumulative effect is a minor punishment and detailed enquiry is not contemplated under the standing orders. Against the order passed by the appellate authority, the petitioner ought to have raised an industrial dispute and prayed for dismissal of this Writ Petition.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. On perusing the records it is seen that the petitioner has not stopped the bus when the passenger alight from the bus and he gave a signal to the driver to stop the bus. When the driver tried to stop the bus, the passenger alighted from the bus and the said passenger ought to have awaited until the driver has stopped the bus. The stopping of the bus is not in the hands of Conductor and the driver is also involved. It is seen the driver has also given identical charge memo. The passenger is also having a duty to give a signal to alight from the bus when the vehicle is running,



but the entire negligence was fasten on the Conductor. Therefore, this Court is inclined to modify the punishment. As far as the contention raised by the respondents the petitioner has to raise industrial dispute before the Labour Court, this Court is of the considered opinion that the Writ Petition is filed in the year 2015 and at this point of time, the petitioner cannot be directed to file a petition before the Labour Court.

8. For all these reasons, this Court is of the considered opinion that the punishment of stoppage of increment for six months with cumulative effect ought to be modified as stoppage of increment for three months without cumulative effect. Therefore, the impugned order is modified as stoppage of increment for three months without cumulative effect.

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

trp

To

1.The Managing Director,Management of Tamil Nadu
Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam.

2.The General Manager,
Tamil Nadu Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-1576[F] dated 12/01/2022)

+1 CC to M/s.A.RAHUL, Advocate (SR-1619[F] dated 12/01/2022)

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MGJ(04.03.2022) 3P 5C