



W.P(MD)No.14229 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14229 of 2018

and

W.M.P.(MD)No.12874 of 2018

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... Petitioner

Vs.

1.The Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Represented by its Managing Director,
Bye Pass Road,
Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Virudhunagar Region,
Virudhunagar.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned office order passed by the second respondent in Ref.No.Sattam/Sa1/104/6B/12, dated 11.05.2018 and quash the same.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.S.C.Herold Singh



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ORDER

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Heard the learned counsel on either side.

2. The writ petitioner joined the respondent Corporation as Reserve Crew Driver. The vehicle driven by him was involved in an accident on 04.07.2010. The two wheeler rider died in the accident. In this regard, Crime No.495 of 2010 was registered on the file of the South Police Station, Thoothukudi. The petitioner faced trial in C.C.No.56 of 2012 on the file of the Chief Judicial Magistrate, Thoothukudi. The case ended in acquittal on 25.02.2013. The Judgment of acquittal has become final. During the pendency of the criminal proceedings, the Management issued charge memo dated 16.03.2012 on the same cause of action. An enquiry officer was appointed and he held that the charge against the writ petitioner was proved. The averments set out in the enquiry report were accepted by the Management and after hearing the writ petitioner, the impugned order dated 11.05.2018 was passed. Punishment imposed on the petitioner was postponement of petitioner's daily wage period by further period of two years. Challenging the same, this writ petition came to be filed.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and allow the writ petition as prayed for.

4. The respondents have filed a detailed counter affidavit and the learned standing counsel took me through its contents. He submitted that the impugned order does not warrant any interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. The impugned order is vulnerable on more than one ground. The Hon'ble Apex Court in the decision reported in *(2012) 5 SCC 242 (Vijay Singh Vs. State of U.P.)* held that the disciplinary authority cannot impose punishment that has not been prescribed under the statutory Rules. I had followed the said decision in a case involving an employee of State Transport Corporation. I had held in W.P.(MD)No.20629 of 2022 dated 11.10.2022 that the Management of the State Transport Corporation cannot impose punishment that has not been prescribed in the certified Standing Orders. The punishment



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set out in the impugned order is not one of the punishments set out in the certified Standing Orders. However, the petitioner's counsel states that he has no objection for modifying the punishment order in tune with the order dated 02.09.2022 made in W.P.(MD)No.11211 of 2013. Accordingly, it is ordered that the petitioner shall be conferred with permanent status on completion of 720 days from 01.08.2008.

7. The Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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