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W.P.(MD)No.1629 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1629 of 2016

N.Uthirapathy

... Petitioner

vs.

1.The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
represented by its Managing Director,
Kumbakonam.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 2nd respondent in his proceedings in Ref:Tha.Aa.Po.Ka/D5/Ku.Pu/320, dated 30.08.2011, in imposing the punishment of increment cut for the period of 1 year with cumulative effect as modified by the



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1st respondent in his office proceedings Ref:Tha.Aa.Po.Ka/D5/Ku.Pu/320/2010, dated 09.10.2014, to quash the same.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.D.Sivaraman

ORDER

This writ petition is filed for issuance of a writ of Certiorari, to quash the impugned order dated 30.08.2011, in imposing the punishment of increment cut for the period of 1 year with cumulative effect as modified by the 1st respondent in his office proceeding, dated 09.10.2014.

2.The petitioner joined the 1st respondent Corporation as Conductor with effect from 11.10.1989. The petitioner retired from service with effect from 31.12.2014. A charge memo, dated 25.04.2011, was issued alleging negligence, wherein a road traffic accident occurred in which a woman passenger sustained injuries on her right leg. The petitioner submitted an explanation, dated 30.04.2011. The 2nd respondent without conducting any enquiry imposed a



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punishment of stoppage of increment for one year with cumulative effect vide impugned order, dated 30.08.2011. The petitioner preferred an appeal and the 1st respondent modified the punishment vide impugned order dated 09.10.2014 as increment cut for six months with cumulative effect. Aggrieved over the said orders, the present writ petition is filed.

3. The 2nd respondent has filed a counter affidavit wherein it is stated that writ petitioner has filed this writ petition after the retirement. The petitioner is a well experienced person and he was posted in Ultra Deluxe Bus. The conductor seat also placed near the front foot board of the bus. At Vadalur bus stop, a woman passenger boarded into the bus with wrong destination. Immediately, that woman tried to alight from bus and fell down on the road. In continuation, the front left wheel of the bus ran over her left leg and she sustained grievous injury. The accident was occurred in front of the Conductor and Driver of the bus. This accident occurred due to careless and negligence of the petitioner and Driver. Due to this accident, the injured person filed MCOP claim and the respondent



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corporation paid Rs.7,25,523/- to the injured person. Disciplinary proceedings were initiated against the Driver and Conductor of the bus. The punishment was awarded as increment cut for one year with cumulative effect for the Driver and Conductor. The punishment was imposed based on the Standing Orders and Procedure for employees who were under coverage of 12(3) Settlement. As per section 25 and 26 (VI) (b) allows to award punishment without conducting enquiry. Under 25, punishment for misconduct is prescribed as stoppage of increments with or without cumulative effect, for which enquiry need not be conducted. Therefore, the counter affidavit stated that the claim of the petitioner is against the 12(3) settlement and prayed to dismiss the writ petition.

4. Heard Mr.A.Rahul, learned Counsel appearing for the petitioner and Mr.D.Sivaraman, learned Counsel appearing for the respondents and perused the records.



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5. The contention raised by the petitioner is that the respondents have conducted the enquiry against the Conductor alone, which is denied by the respondents by stating that disciplinary proceeding was initiated against both the Driver as well as the Conductor. Therefore, this Court is not inclined to entertain this ground.

6. The next ground that was raised by the petitioner is that the appellate authority has reduced the punishment as 6 months with cumulative effect. However, the second respondent while implementing the punishment has imposed stoppage of increment for one year with cumulative effect. Therefore, this Court is of considered opinion that while the appellate authority has reduced the punishment, the same should be imposed against the petitioner. At this juncture the learned Counsel appearing for the petitioner submitted that the punishment is affecting the monetary benefits because he had retired in the year 2014. Therefore, this Court is inclined to confirm the punishment of appellate authority. with slight modification as without cumulative effect.



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7. Therefore, this Court is modifying the punishment as stoppage of increment for 6 months without cumulative effect. The respondents are directed to implement this punishment and consequential monitoring benefits shall be granted to the petitioner within a period of eight weeks from the date of receipt of your copy of this order. However, for the consequential monetary benefits interest is declined. With the above said observation, the writ petition is partly allowed. No costs.

Index : Yes / No
Internet : Yes

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