



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.22980 of 2017

A.Selvaraj ... Petitioner

vs

1. The Presiding Officer,
Labour Court,
Tiruchirappalli.

2. The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited, Periyamilaguparai,
Thiruchirappalli.

3. The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Tiruchirappalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records from the first respondent in Industrial Dispute Case No.100 of 2007 and quash the same and consequently direct the second and third respondents to calculate the arrears of salary and other monetary benefits including terminal benefits by regularize the services of the petitioner from the date of suspension i.e., from 02.06.2005 and disburse the same to him within the period stipulated by this Court.

For Petitioner : Mr. SP. Vijay Nivas

For Respondents : R1-Labour Court

Mr. D. Sivaraman for R2 & R3

**ORDER**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the first respondent in Industrial Dispute Case No.100 of 2007 and consequently, direct the second and third respondents to calculate the arrears of salary and other monetary benefits including terminal benefits by regularize the services of the petitioner from the date of suspension i.e., from 02.06.2005 and disburse the same to him within the period stipulated by this Court.

2. The petitioner was appointed as Driver on 31.04.2005. The contention of the petitioner is that the Branch Manager and the Divisional Manager were acted with a *malafide* intention and with revenge against the petitioner. Therefore, the petitioner went to control room of the respondent Corporation Office situated in Karur Bus Stand, wherein, the said Branch Manager and the Divisional Manager were standing and the petitioner started questioning their illegal highhanded act. The petitioner contended that because of the anger, the Divisional Manager has lost his control and fell down on the floor on his own. But according to the Management, the petitioner hit the higher Officials. The C.C.No.498 of 2005 was registered. The charge sheet was issued and trial was commenced in C.C.No.90 of 2007 on the file of the Judicial Magistrate No.1 and a Judgment dated 16.05.2011 was passed by convicting the petitioner under Section 325 of I.P.C and directed to pay the amount of Rs.2000/- (Rupees Two Thousand only) fine in default to undergo three months simple imprisonment. Aggrieved over the same, the petitioner has preferred Crl.No.2 of 2014 before the Mahila Fast Track Court, Karur, wherein, the punishment was reduced from Rs.2000/- to Rs.1000/- against which the petitioner has preferred Crl.R.C.NO.479 of 2014 and the punishment was reduced from Rs.1000/- (Rupees Thousand only) to Rs.500/- (Rupees Five Hundred only). The respondents issued a Charge Memo and conducted an enquiry which ended in punishment of dismissal from service. The petitioner has challenged the same in the I.D.No.100 of 2007 and the preliminary award was passed on 12.02.2013 stating that the enquiry was conducted after providing opportunity to the petitioner and a final order, dated 06.09.2014 was passed dismissing the petitioner from service. Aggrieved over the same, the petitioner has preferred this present writ petition.

3. The respondents have filed a counter affidavit stating that the petitioner was working as a Driver in the Karur Branch. On 31.05.2005, when the Divisional Manager and the Branch Manager were inspecting the vehicle at around 7.30 p.m., the petitioner entered the time keepers Office and shouted at the Divisional Manager. The Divisional Manager was hit by the box and he was bleeding on his ear lobe. The petitioner has also thrown the chair on the Divisional



Manager and the Branch Manager standing near by the Divisional Manager was shouting for help. Thereafter, the Management has initiated the disciplinary proceedings and placed the petitioner under suspension from 02.06.2005. A Charge Memo, dated 08.06.2005 was issued and the petitioner has submitted his explanation on 14.06.2005. The petitioner was imposed punishment of dismissal from service and there are 35 delinquencies against the petitioner.

4. Heard Mr.SP.Vijaynivas, learned Counsel appearing for the petitioner and Mr.D.Sivaraman, learned Counsel appearing for the second and third respondent.

5. The learned Counsel appearing for the respondents submitted that the act of the petitioner by hitting the higher authorities and assaulting them is grave in nature. Therefore, dismissal from service is the appropriate punishment and relied on the Judgment rendered in *Mathya Pradesh Electricity Board vs Jagdish Sharma AIR 2005 Supreme Court 1924*. In Para 8 it has been stated as under:

"The Courts below by condoning an act of physical violence have undermined the discipline in the organization, hence, in the above factual backdrop, it can never be said that the Industrial Tribunal could have exercised its authority under Section 11(A) of the Act to interfere with the punishment of dismissal."

6. The initial proceedings against the petitioner is that he had consumed Alcohol and has shouted at the higher Officials. But in the disciplinary proceedings it has been held that the petitioner was not under the influence of Alcohol and he has been accused against such allegation. The petitioner submitted it is because of some action by the Management against the petitioner, which has irritating the petitioner and the petitioner lost his control.

7. On perusing the dismissal order, the respondents have narrated the 35 delinquencies. The petitioner has shouted against the Ticket Checker and one more Officer and has imposed only lessor punishment. Apart from that, the other delinquencies are very minor in nature. Therefore, this Court is of the considered opinion that dismissal from service is too harsh. Hence this Court is converting the punishment as Compulsory Retirement. The respondents objected for the conversion of such punishment stating that 35 delinquencies would state the petitioner's attitude, but this Court is convinced that other delinquencies are minor in nature. Moreover, the petitioner was 58 years at the time of filing this petition and he has already attained superannuation. Therefore, this Court is converting the punishment as Compulsory Retirement and directing the respondents to disburse all the terminal benefits to the petitioner as applicable for compulsory retirement. The said exercise shall be



completed within six weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petitioner is disposed of. No costs.

Sd/-

Assistant Registrar (AD I)

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Sub Assistant Registrar(CS)

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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 Presiding Officer,
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Tiruchirappalli.
2. The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited, Periyamilaguparai,
Thiruchirappalli.
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+1 CC to M/s.D.SIVARAMAN, Advocate (SR-8009[F] dated 23/02/2022)

+1 CC to M/s.S.P.VIJAYNIVAS, Advocate (SR-8446[F] dated 24/02/2022)

W.P. (MD)No.22980 of 2017
22.02.2022

MGJ(21.03.2022) 4P 6C