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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.3081 of 2023
and W.M.P No.3157 of 2023

K.Palanivel

Petitioner

VS.

1.The Managing Director,
Tamil Nadu State Corporation,
Salem Division,
No.12, Ramakrishnan Road,
Salem – 7.

2.The General Manager,
Tamil Nadu State Corporation,
Salem Division,
No.12, Ramakrishnan Road,
Salem – 7.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records pertaining to the Charge Memo bearing No.Ku.No.840-10946-D2A-TNSTC (Salem)-2022 dated 19.07.2022 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.T.R.Udaya Kumar

For Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mr.K.Raja, Standing Counsel



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ORDER

This writ petition has been filed challenging the charge memo issued by the 2nd respondent through proceedings dated 19.07.2022.

2.The case of the petitioner is that he is working as a Junior Engineer in the respondent Corporation and he used to effectively participate in agitations and he was elected as a General Secretary to the Engineer's Association in the year 2006. Hence, the petitioner was targeted and repeated charge memos were issued to him. In continuation to this vindictive attitude, the present charge memo was also issued against the petitioner on 19.07.2022. On receipt of the same, the petitioner has also given his explanation on 26.07.2022. That apart, the petitioner also gave his objections on 06.12.2022 stating that the standing orders based on which the disciplinary proceedings have been initiated, has already been set aside by the Labour Court, Salem and hence, the disciplinary proceedings cannot be continued against the petitioner. Since this objection was not considered and the proceedings were continued, the present writ petition has been filed before this Court.



3. Heard Mr.T.R.Udayakumar, learned counsel appearing on behalf of the petitioner and Mr.K.Raja, learned State Government Pleader appearing on behalf of the respondents.

4. There are two main grounds that have been raised in this writ petition and they are:

a) The petitioner is being targeted and repeated disciplinary proceedings have been initiated against him by the respondent Corporation and

b) The standing order based on which the proceedings have been initiated, has already been held to be invalid by the Labour Court and hence, the respondents cannot continue with the disciplinary proceedings against the petitioner.

5. In the considered view of this Court, a careful reading of the charge memo shows that the petitioner was found to be negligent in not properly maintaining the log book, as a result of which the buses in which roof leak and air leak was found, were not properly identified. The nature of allegations that has been made against the petitioner is not very serious. However, the buses are



being used by the general public and improper maintenance of the buses will certainly put them to hardship and ultimately, the respondent Corporation will be blamed for the same. Hence, the respondent has chosen to initiate proceedings against the petitioner.

6.It is true that various proceedings have been initiated against the petitioner from the year 2006-2022 and in many of the proceedings, the petitioner has been fined or has been let out on warnings and some proceedings are also pending.

7.It will not be appropriate for this Court to interfere with the charge memo that has been issued in July 2022 and for which the petitioner has also submitted his explanation. Hence, it will be more appropriate if a time limit is fixed for the completion of the proceedings rather than interfering with the charge memo at this length of time.

8.Insofar as the 2nd issue that has been raised by the learned counsel for the petitioner pointing out to the fact that the standing order has already been held to be invalid, the same has been dealt with by this Court in the earlier orders passed in W.P.No.17638 of 2020, dated 09.12.2020 and the relevant portions of the order are extracted hereunder:



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2. According to the petitioner, a charge memo dated 16.10.2020, was issued against him charging for unauthorized absence and exhibiting conduct subversive of discipline, lack of devotion to duty. The principle ground on which, the charge memo is being assailed is that the standing orders of the Corporation had been held to be invalid by the Labour Court vide its decision dated 18.09.2017. In the absence of any draft or regular standing orders, it is not open to the Corporation to initiate disciplinary action against the petitioner.

3. The learned counsel for the petitioner vehemently submitted that the action of the Corporation in issuing the impugned charge memo is without the authority of law and therefore, the charge memo has to be held as illegal and void.

4. This Court is unable to appreciate that even in the event of existing standing orders to be held invalid and void, the Management hands cannot be tied from taking any disciplinary action against the employees in the face of overt act of misconduct on the part of the employees. Assuming what is stated in the affidavit is true, yet, it is still permissible for the Corporation to take action against the employees on the basis of the old standing orders till the new standing order are put in place or it is open to the Corporation to follow the model standing orders for the said purpose.



has already been put to challenge before this Court in W.P.No.10815 of 2018 and the same is pending.

11.In view of the above discussion, this writ petition stands disposed of with a direction to the 2nd respondent to complete the proceedings initiated against the petitioner through Charge Memo dated 19.07.2022, within a period of eight weeks from the date of receipt of copy of this order. Any observation made in this order, will not have any bearing and the defence raised by the petitioner shall be considered on its own merits and in accordance with law.

12.This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

06.02.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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N. ANAND VENKATESH, J.

SSR

To

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