



WEB COPY



W.P. No. 10396 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 10396 of 2023

and

W.M.P. No. 10349 of 2023

P.K. Arjunan

... Petitioner

-VS-

Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
Represented by its General Manager,
37, Mettupalayam Road,
Coimbatore – 641 043.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for records pertaining to Charge Memo dated 26.07.2022 made in proceeding bearing 1/D11/353/Sattam/Tha A Poo Ka/E Ma/2022 by the Respondent and to quash the same.

For Petitioner : Mr. B.Mohan

For Respondent : Mr. Murali Vinoth

ORDER

Heard Mr. B.Mohan, Learned Counsel for the Petitioner and Mr. Murali Vinoth, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Writ Petition challenges the Proceedings in Charge Memo No. 1/D11/353/Sattam/ThaAPoKa/EMa/2022 dated 26.07.2022 issued by the Respondent, which is evidently a show cause notice calling upon the Petitioner to show cause as to why disciplinary action should not be taken for unauthorized absence from duty in disciplinary proceedings.

3. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in ***Union of India -vs- Kunisetty Satyanarayana*** [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:-

“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh [JT 1995 (8) SC 331], Special Director -vs- Mohd. Ghulam Ghouse (AIR 2004 SC 1467), Ulagappa -vs- Divisional Commissioner, Mysore [2001(10) SCC 639], State of U.P. -vs- Brahm Datt Sharma (AIR 1987 SC 943) etc.



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14. *The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charges-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.*

15. *Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be*



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exercised by quashing a show-cause notice or charge sheet.

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16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

In such circumstances, there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the Respondent, who is bound to deal with the same before coming to any ultimate conclusion and there is no necessity for the Court to interfere at this pre-mature stage of the matter.

4. In view of the same, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition reserving the rights of the Petitioner to raise all contentions by way of reply to the Respondent and in the event of any adverse decision taken, to work out its rights before the proper forum in the manner recognized by law, and he has made an endorsement to that effect in the court record. Though obvious, it is made clear that no view has been expressed by the court on the merits of the controversy involved in the matter.



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In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 27.06.2023.

To

The General Manager,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore – 641 043.



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P.D. AUDIKESAVALU, J.

skr

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