



W.P. No. 12855 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

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

W.P. No. 12855 of 2023

and

W.M.P. Nos. 12661, 12662 and 12666 of 2023

M.Balasubramanian

... Petitioner

-VS-

1. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division,
No. 37, Mettupalayam Road,
Coimbatore District – 641043.
2. The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division,
No. 37, Mettupalayam Road,
Coimbatore District – 641043.
3. The Enquiry Officer,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division,
No. 37, Mettupalayam Road,
Coimbatore District – 641043.
4. The Assistance Manager Law Section-II,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division,
No. 37, Mettupalayam Road,
Coimbatore District – 641043.

... Respondents



W.P. No. 12855 of 2023

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Declaration, declaring the act of the Respondents in the Enquiry report dated 30.11.2022 by the Third Respondent and second show cause notice dated 10.02.2023 issued by the Second Respondent as null and void and to defer the decision/drop on the second show cause notice dated 10.02.2023 and consequently direct the Respondents to treat the Petitioner's representation dated 10.09.2019, 26.09.2019 and 16.10.2019 and further to direct the Respondent to release the benefits as to Retiring Pension as well as other retirements dues including the gratuity, provident fund, in favour of the Petitioner with in prescribed time period.

For Petitioner : Mr. R.Y.George Williams

For Respondents : Mr. A.Vinoth Raj

ORDER

Heard Mr. R.Y.George Williams, Learned Counsel for the Petitioner and Mr. A.Vinoth Raj, Learned Counsel, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had been employed as Driver in the Transport Corporation of the Respondents and disciplinary proceedings had been initiated against him for unauthorized absence from duty and in terms of the service rules, after furnishing the enquiry report dated 30.11.2022 and calling upon him to submit his representation, if any, a second show cause notice dated 10.02.2023 has been issued proposing to inflict the punishment dismissal from service, which



W.P. No. 12855 of 2023

is challenged in this Writ Petition. The grievance ventilated by the Petitioner is that he had made an application for voluntary retirement from service, but without accepting it, the Respondents have issued the impugned notice.

3. It is not possible to entertain this Writ Petition claiming the said relief at this pre-mature stage in contravention of the procedure laid down to be followed in disciplinary proceedings in the authoritative pronouncement of the Constitution Bench of the Hon'ble Supreme Court of India in ***Managing Director, ECIL -vs- B.Karunakar*** [(1993) 4 SCC 727]. It is apparent that the prosecution of this Writ Petition is an abuse of the legal process to circumvent the disciplinary proceedings from reaching its logical conclusion. The Respondents have not been shown to owe any obligation to accept the application for voluntary retirement said to have been made by the Petitioner. If the Petitioner has failed to submit his reply to the second show cause notice within the specified time limit, the concerned authority is not precluded from taking further action in accordance with law. Depending upon the ultimate outcome of the disciplinary proceedings, the respective parties may take further action to work out their rights before the proper forum in the manner recognized by law.



W.P. No. 12855 of 2023

In such circumstances, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed.

26.04.2023

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Index: Yes/No

NCS:Yes/No

Note: Issue order copy by 21.08.2023.

To

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W.P. No. 12855 of 2023

P.D. AUDIKESAVALU, J.

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W.P. No. 12855 of 2023

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