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W.P.No.19830of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.19830 of 2023 & WMP.No.19168 of 2023

K.Sundararajan

... Petitioner

Vs

1. The Managing Director,
Metropolitan Transport Corporation [Chennai] Limited,
Pallavan Illam, Anna Salai, Chennai – 600 002.
2. The Senior Deputy Manager,
Metropolitan Transport Corporation [Chennai] Limited,
Pallavan Illam, Anna Salai, Chennai – 600 002. ... Respondents

Prayer :- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the first respondent Kurippanai No.4610/Sapi/Ona/15/Mapok/2020 dated 31.01.2023 confirming the Order of punishment by the second respondent bearing Kurippanai No.4610/Sapi[Ona]/15/Mapok/2020 dated 31.10.2023 and quash the same and consequently direct the respondents to pay the arrears of salary and other benefits to the petitioner.

For Petitioner : Mr.M.Elumalai



W.P.No.19830of 2023

WEB COPY

For Respondents : Mr.A.Vinodhraj
Standing Counsel for the respondents

ORDER

This Writ Petition has been filed to quash the proceedings of the first respondent in Kurippanai No.4610/Sapi/Ona/15/Mapok/2020 dated 31.01.2023 confirming the Order of punishment by the second respondent bearing Kurippanai No.4610/Sapi[Ona]/15/Mapok/2020 dated 30.04.2022 and consequently direct the respondents to pay the arrears of salary and other benefits to the petitioner.

2. The case of the petitioner is that the petitioner was working as a Driver in the respondent Corporation on 01.10.2009. The charge against the petitioner is that on 05.11.2020, while the petitioner was driving the bus bearing registration No.AYA 1126. Route No.248-F in Kunnur Highways, he drove the bus in a rash and negligent manner which resulted in the accident and the motor cyclist succumbed to the injuries. The departmental proceedings and based on the report of the enquiry officer, the punishment of stoppage of increment has been slapped



W.P.No.19830of 2023

against the petitioner. Challenging the same, he has also filed an appeal.

However, the appeal has been summarily dismissed without any reasoned Order, just holding that there is no merit to interfere with the of the enquiry officer. The writ petitioner has challenged the punishment on the ground that there is no opportunity has been given to the petitioner. However, the enquiry officer has recorded a finding without any evidence and considered irrelevant materials.

3. In an earlier occasion, this Court has directed the respondent to produce the entire file before this Court. Though the counter has not been filed, the manner in which the enquiry was conducted, on a perusal of the entire file produced before this Court, the nature of the enquiry conducted by the respondent is nothing but farce. No procedure has been followed. The very charge itself is that the petitioner drew the bus in a rash and negligent manner and it resulted in the accident causing death of a motor cyclist. Wherein, the enquiry officer relied upon the evidence of the staff of the mechanical shed, who has inspected the bus after the accident. Only on the basis of the said evidence, the enquiry



W.P.No.19830of 2023

officer has held that the charge has been proved. Without any materials available on record in the nature of preponderance of probabilities to prove the charge, the enquiry officer mechanically passed an Order that the charge has been proved and the punishment has been imposed. Therefore, when the disciplinary proceedings and the punishment imposed is based on irrelevant materials or without any evidence, the Court can very well interfere with such punishment. The appeal filed against the Order of the enquiry officer has also been mechanically dismissed without any reasoned Order. Hence, as there is no materials to hold that the petitioner drove the vehicle in a rash and negligent manner, the petitioner cannot be slapped with punishment.

4. It is also relevant to note that in the same set of facts, the criminal Court acquitted the writ petitioner in C.C.No.9273 of 2021, wherein the criminal Court took note of the fact that P.W.3 Prasanna Kumar admitted that the motor cyclist fell down while riding over the drainage. In such view of the matter, the department proceedings is only an eye wash and without any materials and the petitioner has been slapped with the



W.P.No.19830of 2023

punishment and the same is liable to be set aside.

5. Accordingly, this Writ Petition is allowed and the impugned Orders dated 30.04.2022 of the second respondent and Order of the first respondent dated 31.10.2023 are quashed and the respondents are directed to pay the arrears of salary and other benefits to the petitioner within a period of two months from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed. No costs.

03.08.2023

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

1. The Managing Director,
Metropolitan Transport Corporation [Chennai] Limited,
Pallavan Illam, Anna Salai, Chennai – 600 002.
2. The Senior Deputy Manager,
Metropolitan Transport Corporation [Chennai] Limited,
Pallavan Illam, Anna Salai, Chennai – 600 002.



WEB COPY



W.P.No.19830of 2023

N.SATHISH KUMAR, J.

VTC

W.P.No.19830 of 2023

03.08.2023