



WEB COPY



W.P.No.34300 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.34300 of 2022
and WMP No.33756 of 2022

K.Duraisamy

...Petitioner

Vs

1. The Managing Director,
Metro Transport Corporation (Chennai Limit),
Anna Salai, Chennai-600 002.

2. Senior Deputy Manager (HRD),
Metro Transport Corporation (Chennai Limit),
Anna Salai, Chennai-600 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records in connection with the impugned order bearing Proceedings No.7280/Sa.Pi(O.Na)14/Ma.Po.Ka/2017-1 issued by the 2nd respondent dated 29.04.2021 and the impugned order passed in appeal vide Memo No.7280/Sa.Pi(O.Na)14/Ma.Po.Ka/2017-1 issued by the 1st respondent dated 18.09.2021 and quash the same.

For Petitioner : Mr.K.Krishnamoorthy



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For Respondents : Mr.R.Balaji
Standing Counsel

ORDER

The petitioner is a Bus Driver under the respondent Corporation. The charge against the petitioner is that when the petitioner was driving the bus along with one P.Ganesh (Conductor), the bus was driven in a rash and negligent manner, which resulted in the death of a passenger, which is a misconduct under the Standing Order No.25(xiii)(a).

2. Based on the Charge Memo, common enquiry has been conducted. The Enquiry Officer had held that the charge against the petitioner was proved, to which, the petitioner had given his detailed further explanation on 13.07.2020. Through the impugned order dated 18.09.2021, the first respondent herein had imposed the punishment of postponement of increment for four years with cumulative effect.

3. Incidentally, the co-delinquent viz., the conductor was imposed lesser punishment of postponing of one year increment with cumulative effect.



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4. Learned counsel for the petitioner predominantly raised a ground stating that he has given a detailed further explanation to the proven charges, questioning the enquiry proceedings. The disciplinary authority have failed to consider any of the explanation therein.

5. The learned Standing Counsel appearing for the respondents on the other hand submits that the petitioner, being the driver of the bus, had driven the bus in a rash and negligent manner, which resulted in the death of a passenger. Since the charge against the petitioner is serious in nature, the punishment was proportionate to the levelled charges. He further submits that the further explanation of the petitioner has been considered by the second respondent herein in the impugned order and therefore, there is no infirmity either in the order of punishment or in the order passed the appeal.

6. In the light of the submissions made, I had perused the impugned order of punishment of the second respondent herein. In the said order, the charges and the further proceedings have been extracted. Thereafter, the



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second respondent herein had referred to the further explanation rendered by the petitioner herein dated 13.07.2020 and had rejected the same in a single line stating that the “ *explanation is not satisfactory*”. A copy of the further explanation dated 13.07.2020 has also been produced before this Court, wherein, the petitioner had questioned the manner in which the enquiry report has been filed and also has made a reference to the evidence let in before the Enquiry Officer. The very purpose of which such a further explanation is called is to give opportunity to the delinquent to put forth his objections and consequently, there is a duty cast upon them to consider each and every ground raised in the further explanation and thereafter render finding. In the absence of the same, the order of punishment itself would stand vitiated and would also amount to a non-speaking order. If that be so, it would be appropriate to remit back the matter to the disciplinary authority for reconsideration of the petitioner's further explanation.

7. In the light of the above findings, the impugned order No.7280/Sa.Pi(O.Na)14/Ma.Po.Ka/2017-1 issued by the 2nd respondent dated 29.04.2021 and the impugned order passed in appeal vide Memo



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No.7280/Sa.Pi(O.Na)14/Ma.Po.Ka/2017-1 issued by the 1st respondent dated 18.09.2021 are set aside insofar as it relates to the petitioner herein and the matter is remitted back to the second respondent. The second respondent shall consider all the grounds raised by the petitioner in his further explanation dated 13.07.2020 and pass appropriate orders by addressing all the grounds raised by the petitioner herein in case they choose to do so. Such final orders shall be passed atleast within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

06.06.2023

Index:Yes
Speaking order
sr

M.S.RAMESH,J.

Sr



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To

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