



W.P.No.455 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.455 of 2019

A.Srimurugan

... Petitioner

Vs.

1.The Managing Director,
State Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,
Chennai – 600 002.

2.The Senior Deputy Manager (Employees),
State Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,
Chennai – 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider and pass order on the petitioner's representation dated 02.11.2018 to grant and disburse the arrears of salary to the petitioner with effect from April



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2018 in pursuance of the orders passed in W.P.No.19645 of 2018 dated 01.08.2018 by this Court.

For Petitioner : Mr.Srimurugan
Party-in-person

For Respondents : Mr.R.Balaji

ORDER

This petition has been filed seeking for a direction to the respondents to consider and pass order on the petitioner's representation dated 02.11.2018 to grant and disburse the arrears of salary to the petitioner with effect from April 2018 in pursuance of the orders passed in W.P.No.19645 of 2018 dated 01.08.2018 by this Court.

2.It is the case of the petitioner that the petitioner was appointed as Conductor on 29.11.2010 in the respondent Transport Corporation. On 27.01.2018, the 2nd respondent had passed an order placing the petitioner under suspension on some flimsy ground. While he was under suspension, on 27.02.2018, the 2nd respondent had passed an order transferring him from



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Ambattur Depot to Adyar Depot on administrative grounds. On receipt of the transfer order, the petitioner appeared before the concerned Authorities and prayed for reinstatement. The 2nd respondent passed on order of reinstatement into service on 22-03-2018. Thereafter, the petitioner was directed to report for duty at Ambattur Depot on 26.03.2018. Accordingly, the petitioner joined duty at Ambattur Depot on 26-03-2018 itself and discharged his duty as Conductor. When he reported for duty on the next day, he was informed that he should join duty at Adyar Depot. Thereafter, the petitioner made several representations requesting the 2nd respondent to allow him to join duty. In spite of several representations, he had been denied employment.

3.As per the orders of this Court in W.P.No.19645 of 2018 dated 01.08.2018, this Court disposed of the Writ Petition in the absence of counter affidavit, directed the 1st respondent to take an informed and considered decision on the representation of the petitioner dated 30.03.2018 within a period of two weeks from the date of receipt of a copy of that order.



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But, the same has not been considered by the respondents till 2019. Hence, the present Writ Petition has been filed.

4.The learned counsel appearing for the respondents would submit that the disciplinary proceedings have been initiated against the petitioner and he has been punished and his salary was not paid to him.

5.According to the petitioner, the Government Transport Workers Association filed O.P.No.269 of 2021 before the learned I Additional Labour Court, Chennai, on behalf of the petitioner stating that there was an enmity between himself and one Assistant Engineer E.Ashok Kumar alleged to have been provided fake educational certificates and the same has been confirmed by the defacto petitioner by obtaining information through RTI Act in Case No.SA4448/2019 dated 16.05.2019. The defacto petitioner has sent the same to the higher officials against the said E.Ashok Kumar. Hence, he joined with hands of Branch Manager R.Sanjay Kumar and has given false complaint against the defacto petitioner. It is also the case of the



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petitioner that a charge memo dated 24.03.2018 was issued and the petitioner requested to furnish the basic complaint to the charge memo, but the respondent Corporation denied to furnish the same.

6. According to the Authorities, the petitioner had issued a ticket value of Rs.50/- one day optional travel ticket in Ticket No.KA 05/No.351759 to a passenger and the ticket Inspector along with the officials have checked the tickets from the passengers. The defacto petitioner has mentioned the date 16.01.2018 alone, normally the month and date has to be filled in appropriate column, then only the same ticket could not be used for the next day. But, the defacto petitioner without properly filling up the columns in the ticket, he has issued the ticket to the passengers and when the same has been enquired by the Ticket Inspectors and some officials, the petitioner abused the officials by using filthy language in the presence of the public. The disciplinary proceedings initiated against the defacto petitioner based on the standing orders and by adhering the principles of natural justice.



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7. On the side of the petitioner, the defacto petitioner examined himself as WW1 and Ex.W1 to Ex.W23 have been marked. There is no oral and documentary evidence has been marked. The respondent issued a charge memo dated 24.03.2018 and has temporarily suspended the petitioner dated 27.01.2018. The petitioner sought for the copies of the documents upon which charge sheet was given and the documents have not been issued. The respondents contended that the petitioner has not given reply for the charge memo and therefore, it has proceeded by issuing of show cause notice regarding the punishment of postponing of increment for 5 years with cumulative effect and the suspension period treated as leave at his credit by order dated 28.08.2018. According to the petitioner, the said Authorities have not given sufficient opportunities to the petitioner and there was no disciplinary proceedings conducted as per the procedure in law.

8. According to the petitioner, the respondent/management has not



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chosen to let in evidence before the Labour Court and the counsel for the respondent/Management has made an endorsement in the said petition on 19.07.2022 that “no oral evidence”. The respondent/Corporation has not marked any document to prove the charge levied against the petitioner before the Labour Court. Therefore, sufficient opportunities have been given by the Labour Court to the respondent Management to prove the alleged charges against the petitioner. Hence, the Labour Court allowed the petition and the punishment imposed under Ex.W3, namely, withholding increment for a period of 5 years with cumulative effect and suspension period treated as leave on his credit is not reasonable and proper and set aside the order passed on 28.08.2018. The respondent/Corporation is directed to remit back the amount already withheld by it on implementation of the impugned order to the petitioner within 60 days from the date of Award, failing which, the respondents would be liable to pay interest @9% per annum on the abovesaid amount.

9.Considering the facts and circumstances of the case, this Court is of



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the view that the petitioner is entitled for arrears of salary. Further, there is no material to show that any appeal has been filed or interim order has been obtained by the respondents. The respondents have not implemented the order of the Labour Court till date. The respondents have not disbursed the amount to the petitioner within a period of eight weeks and therefore, the petitioner is entitled to 9% interest on the award amount. The Exchequer is directed to take appropriate action against the respondents for causing loss to the Corporation.

Accordingly, this Writ Petition is disposed of. No costs.

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Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

1.The Managing Director,

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State Metropolitan Transport Corporation,
Pallavan House,
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2.The Senior Deputy Manager (Employees),
State Metropolitan Transport Corporation,
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V.BHAVANI SUBBAROYAN, J.

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