



W.P.(MD).No.17628 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.17628 of 2020

and

W.M.P(MD)No.14733 of 2020

S.Suresh

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Karaikudi Region,
Managri (P.O),
Maruthupathi,
Karaikudi,
Sivagangai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order of the respondent in Ref: TNSTC/TS/T3/2018, dated 17.07.2019 and quash the same.

For Petitioner : Mr.G.M.Xavier

For Respondent : Mr.P.Balasubramanian
Standing Counsel



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ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned order passed by the respondent, dated 17.07.2019.

2.The petitioner joined in the services of the respondent Corporation as Conductor from 06.09.2007. He has rendered 12 years of service with the respondent. At present, he is working as a Conductor at Muthukulathur Branch of the respondent Corporation. The petitioner has joined a Trade Union named Tamil Nadu State Transport Corporation Thozhilalar Urimai Pathukappu Sangam and he was elected as Regional Treasurer of Karaikudi and even now, he is the Treasurer of the said Union. The petitioner was issued with a charge memo on 10.01.2019, alleging that he took photographs of the lady staff members working at Muthukulathur Branch in cell phone and published the same denigrating the colleagues in social media especially Whatsapp alleging that those women enjoyed the influence among higher officials. It is also alleged that the petitioner instigated the employees against the respondent Management and he also used derogatory language about the Management. The petitioner received

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the said charge memo, dated 20.12.2018, which was received on 28.12.2018 and the show cause notice, dated 10.06.2019 which was served on him on 20.06.2019. At the time of receiving the charge memo and show-cause notice, the petitioner endorsed his strong objection to not providing a copy of the complaint and other evidence on the basis of which, those show-cause notice and charge memo were issued. However, without providing him with documentary evidence and a basic report and even without conducting an enquiry on the alleged misconduct, finally, the petitioner was issued with the impugned order passed by the respondent, dated 17.07.2019, wherein it has been decided to stop the increment of the petitioner with cumulative effect for a period of one year. Challenging the said impugned order, dated 17.07.2019, the present Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner vehemently contended that the respondent has violated all the principles of natural justice by not issuing a copy of the complaint and also other documentary evidence on the basis of which, the respondent has initiated the disciplinary proceedings by issuing a charge-memo and subsequently, by sending a show-cause notice. The



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learned counsel also vehemently contended that this is not the first time the respondent is heeding to such an exercise and taking into consideration the post of Treasurer of workers Union, which is being held by the petitioner continuously voicing the concerns of the workers of the Transport Corporation only to the vengeance of the respondent Corporation higher authorities continuously the petitioner is subjected to such situation by issuing show-cause notice again and again without providing him with necessary records with respect to each and every disciplinary proceeding and even during this disciplinary proceeding also, he was not given with an opportunity of hearing and he was also not furnished with the relevant materials before passing the impugned order and hence, on that ground alone, this Writ Petition ought to be allowed by quashing the impugned order, dated 17.07.2019.

4.Per contra, the learned standing counsel appearing for the respondent vehemently contended that it is a *modus operandi* of the petitioner to indulge in trouble making and he is a trouble monger and who always indulges in creating problems again and again to the proper conduct of the administration of the respondent Corporation and each and every time, whenever, he is served with show cause notice for various misbehaviour, especially, in the previous occasions of



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initiating disciplinary proceedings on him on 22.12.2018, 15.12.2018, 04.10.2018, 18.09.2018, 09.08.2019, 24.11.2019 and 11.01.2020, every time he resorted to the same style of making an endorsement in the show-cause notice as well as charge memo seeking for the copies of the complaint and also relevant materials and thereafter, not turning out with the reply for the said notice and hence, every time, the respondent Corporation was constrained to inflict the punishment on him, minor or major whatever without concluding an enquiry.

5.The learned standing counsel appearing for the respondent also relied upon the order passed by this Court in a previous matter pertaining to the same petitioner in **W.P(MD) No.16864 of 2020, dated 13.03.2023 (S.Suresh Vs. The General Manager)**, wherein this Court has observed that “the petitioner instead of submitting a formal reply appears to have made an endorsement in the charge-memo itself that he must be furnished with the copy of the basic complaint and he must also be given 60 days time to respond. The employer thereafter issued show cause notice dated 18.05.2018 proposing punishment of stoppage of increment for a period of three months without cumulative effect. The petitioner appears to have made a similar endorsement in the show-cause notice



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also and thereafter, the impugned order dated 29.01.2019 came to be passed imposing punishment of stoppage of increment for a period of three months” and also observed that “when the petitioner has not responded to the charge memo as well as the show-cause notice, the employer was left with no other option rather passing an order based on the available materials on record” and thereby dismissed the said Writ Petition filed by the petitioner.

6.Heard Mr.G.M.Xavier, learned counsel appearing for the petitioner and Mr.P.Balasubramanian, learned Standing Counsel appearing for the respondent and anxiously perused the entire materials available on record.

7.The charge memo, dated 20.12.2018 was received by the petitioner on 28.12.2018, which was followed by a show-cause notice, dated 10.06.2019 which was served on the petitioner on 20.06.2019. Even in this occasion, the petitioner had made an endorsement in both the charge memo and show-cause notice seeking the copy of the complaint and other details and he had made an endorsement that if furnished with the same, he would be able to disprove the allegation with which he is charged. However, the respondent corporation did not



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turn up to furnish those details as usual and proceeded to pass the impugned order imposing the punishment of stoppage of increment with cumulative effect for a period of one year.

8.The learned counsel appearing for the petitioner vehemently insisted that had the petitioner been given an opportunity by furnishing the necessary particulars certainly he would have disproved all the allegations and such an observation cannot be discarded.

9.In view of the above, this Court is inclined to quash the impugned order, dated 17.07.2019 and further, remand the matter back to the respondent.

10.Accordingly, the impugned order, dated 17.07.2019 passed by the respondent is quashed and the matter is remanded back to the respondent. The respondent is directed to properly furnish the copy of the complaint and other relevant documents to the petitioner and this Court further strictly directs the petitioner not to behave as a Treasurer of an Institution, but as a delinquent against whom



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disciplinary action has been initiated and as a responsible worker of the respondent corporation, the petitioner is directed to cooperate, respond to the charge memo and show cause notice with appropriate reply and participate in the enquiry. The respondent shall appoint an enquiry officer and an enquiry made by concluded within a period of six months from the date of receipt of a copy of this order.

11.With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes
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To

The General Manager,
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(Kumbakonam) Limited,
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L.VICTORIA GOWRI, J.

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