



W.P.(MD).No.18241 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.18241 of 2023

and

W.M.P(MD)Nos.15207 & 15208 of 2023

P.Mahalingam

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam Region,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in TNSTC/D02/KuNa2/186/2015 dated 04.11.2015 and quash the same as illegal.



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For Petitioner : Mr.P.Vijaynivas
For Respondents : Mr.K.Ramaiah
Standing Counsel

ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent, dated 04.11.2015.

2.Heard Mr.P.Vijaynivas, learned counsel appearing for the petitioner and Mr.K.Ramaiah, learned standing counsel appearing for the respondents and perused the materials available on record.

3.The petitioner was working as a Driver in the State Transport Corporation (Kumbakonam) Limited and joined duty in the year 2013. On 14.05.2015, while the petitioner was driving the Corporation Bus bearing Registration No.TN-68-N-0500 from Thiruvavarur to Kumbakonam, a School girl suddenly came towards the bus and on seeing the same, he suddenly applied brake in order to stop the bus. However, due to some technical fault, the bus lost its control and dashed against the vehicle. In the said accident, the School girl got simple injury. A case has been registered as against the



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petitioner for the above said accident in Crime No.243 of 2015 under Sections 279 and 337 of I.P.C on the file of the Thiruvarur Town Police Station and the final report was filed and the same was taken on file in S.T.C.No.1103 of 2015 and he was acquitted from the trial Court. In the meanwhile, the Management suspended the petitioner from service and the same was followed by the charge memo dated 09.07.2015 and domestic enquiry was conducted by the Management. The second respondent passed a final order, dated 28.09.2015, thereby stopping the increment for a period of six months with cumulative effect. Challenging the same, the petitioner preferred an appeal before the first respondent. The first respondent, vide impugned order, dated 04.11.2015, modified the same as stoppage of increment for three months with cumulative effect instead of six months. Challenging the impugned order, dated 04.11.2015 passed by the first respondent, this Writ Petition came to be filed.

4.The learned counsel appearing for the petitioner submitted that the issue involved in this case has already been settled by the decision of this Court in ***W.P(MD)No.14780 of 2018, dated 10.07.2018 [M.Sathiyaseelan Vs. the Managing Director, Tamil Nadu State Transport Corporation (Madurai) Limited, Madurai]***



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and hence, the learned counsel prayed for the passing of similar order in this writ petition also and the relevant portion of the above said order reads as follows:

"10.In clause 61 of the Settlement under Section 12(3) of I.D.Act, between the employer and employees, the following has been provided:

"Disciplinary Action in Accident Cases

61.Where a driver involved in an accident and held guilty of charge in domestic enquiry, subsequently honourably acquitted in the criminal case, the decision in the disciplinary case on the same charge may be revised based on the orders of the Court. However, if the acquittal is by benefit of doubt, no such revision is necessary."

11.Only in order to meet such circumstances, where, even though if a Driver is found guilty of charge on domestic enquiry and if he subsequently acquitted honourably in the criminal case and if decision on the disciplinary proceedings was taken on the same charge, it can be revised based on the orders of the Court. Here, in the case in hand, departmental enquiry conducted only on the same charge of the accident and based on which punishment was imposed against the petitioner. However, the very same accident case, after having investigated by the concerned police, ended in action



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dropping by final report dated 24.03.2010, where the police has given categorical finding that the petitioner was not guilty. Even in case, where police filed final report and if trial is conducted and ultimately the competent criminal Court acquitted the accused/employee honourably, even in that circumstances, the decision of the competent criminal Court can be taken into account by the disciplinary authority to review or revise the punishment inflicted on the employee pursuant to the domestic enquiry.

12.Here in the case in hand, even after investigation, the police came to a conclusion that action has to be dropped against the petitioner with a clear finding that the petitioner is not guilty. The said final report filed by the police was accepted by the criminal Court and accordingly, the case was closed. Therefore, as per clause 61 of the 12(3) Settlement as has been referred to above, the petitioner's case i.e. the punishment inflicted for him pursuant to the departmental enquiry as modified by the appellate authority shall be reviewed and in fact revised.

13.Even though, in this regard, the petitioner made a request through his lawyer by legal notice, so far, no action seems to have been taken by the respondents. Therefore, there is every justification on the part of the petitioner to approach this Court, where the petitioner has made out a case.



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14.In that view of the matter, this Court is inclined to pass the following order:

"The respondents are hereby directed to revise the punishment inflicted on the petitioner as modified by the appellate authority in view of the action dropped report dated 24.03.2010 filed by the investigation agency, i.e. (police) before the Judicial Magistrate No.1, Dindigul on 24.03.2010 in the light of clause 61 of the Settlement under Section 12(3) of I.D. Act between the employer and employees and pass an order revising the said punishment of the petitioner. The said order shall be passed by the respondents, within a period of six weeks from the date of receipt of a copy of this order. It is needless to mention that once an order passed to that effect revising the said punishment, consequential service benefits on the petitioner, for which, the petitioner is entitled to shall be extended to him.

15.With the above direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed."

5.In view of the above, this Court is of the view that the above order covers the issue involved in this writ petition. Therefore, in the light of the order cited supra, the first respondent is directed to revisit the punishment inflicted on the petitioner in view of the fact



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that the petitioner was acquitted in S.T.C.No.1103 of 2015 on the file of the learned Judicial Magistrate, dated 08.03.2018, as per Clause 61 of the Settlement under Section 12(3) of I.D Act between the employer and employees and pass an order to that effect. The said order shall be passed by the respondents, within a period of six weeks from the date of receipt of a copy of this order. It is needless to mention that once an order is passed for revisiting the punishment, consequential service benefits entitled to the petitioner shall be extended to him.

6.This Writ Petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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

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L.VICTORIA GOWRI, J.

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