



W.P.(MD)No.15499 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15499 of 2018

A.S.Natesan

... Petitioner

Vs.

1. The Managing Director,
State Express Transport Corporation TN Limited,
Head Quarters, Pallavan Salai,
Chennai – 600 009.
2. The General Manager (Administration),
State Express Transport Corporation TN Limited,
Pallavan Street, Chennai – 600 002.
3. The Deputy Manager (Legal),
State Express Transport Corporation TN Limited,
Pallavan Street,
Chennai – 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of ***Certiorarified Mandamus***, to call for the records pertaining to the impugned order in No.5917/TL6/SETC/2015, dated 30.05.2016 on the file of the Respondent No.1 and quash the same as illegal and remand the same to the Respondent No,1 to decide the appeal, dated 16.07.2015 on merits.



W.P.(MD)No.15499 of 2018

WEB COPY

For Petitioner : M/s.S.Louis
For Respondents : Mr.K.Sathya Singh
Standing Counsel

ORDER

This writ petition is filed to quash the impugned order, dated 30.05.2016 and remand the same to the 1st respondent on merits and decide the appeal, within a stipulated time that may be fixed by this Court.

2. The petitioner was lastly working as Senior Grade Assistant Checking Inspector and retired from service on 31.05.2016 on attaining the age of superannuation, after completing 35 years of service.

3. The brief facts as stated in the affidavit is that the petitioner's brother-in-law, namely Velappan had borrowed a sum of Rs.2 lakhs from one Bagavathiammal and later he failed repay the amount. The petitioner has stood as guarantor by issuing cheque leaf from his account. Since the cheque was bounced the said lender has initiated a criminal proceeding. Hence, the respondents have issued a charge memo, dated 01.02.2008 and framed four charges against the



W.P.(MD)No.15499 of 2018

WEB COPY

petitioner and the sum and substance of the charge is dishonesty to the said Bagavathiammal.

4. The contention of the petitioner is that on 21.03.2012 the enquiry was conducted on the charges issued under the charge memo, dated 01.02.2008. In the enquiry the petitioner had explained that the criminal case was falsely registered against the petitioner and the petitioner would prove his innocence in CrI.R.C(MD)No.534/2010. Without taking the said submission into consideration, the respondents have concluded the proceedings. On 03.08.2009, the 2nd respondent has issued a show cause notice proposing to impose the punishment of stoppage of increment for three years with cumulative effect and directed the petitioner to submit his objections. The petitioner submitted his objection and stated that without conducting proper enquiry the charges have been held as proved and has proposed to impose the punishment, which is violative of principles of natural justice.

5. The further contention of the petitioner is that proper enquiry was not conducted. The second show cause notice was issued on 03.08.2009, but the



W.P.(MD)No.15499 of 2018

WEB COPY

enquiry report was submitted on 16.04.2012. On that score itself, the order of punishment is liable to be set aside. Since the original authority has not considered the petitioner's contention, the petitioner has preferred an appeal and the Appellate authority, vide order, dated 30.05.2016 has passed a cryptic order, without assigning any reasons. The punishment was slightly modified and imposed punishment of stoppage of increment for three years without cumulative effect. Aggrieved over the said orders, the petitioner is before this Court.

6. The respondents have submitted that the petitioner is having an alternate remedy to file the case before the Labour Court. The petitioner cannot be allowed to file writ petition, when the petitioner is having an alternate remedy and prayed to dismiss the writ petition.

7. Heard M/s.S.Louis, learned counsel appearing for the petitioner and Mr.K.Sathya Singh, learned Standing Counsel, appearing for the respondents. Perused the material documents available on record.



W.P.(MD)No.15499 of 2018

WEB COPY

8. It is seen from the records that the charge against the petitioner is nothing to do with the service of the petitioner and it is a private dispute between the petitioner and one Bagavathiammal. Moreover, the petitioner has not borrowed money from the said Bagavathiammal, but, stood as guarantor for repayment of the said money. Since the borrower who is brother-in-law of the petitioner has not settled the same, the said Bagavathiammal has initiated criminal proceedings, whereas the petitioner was shown as one of the accused. In the criminal case the petitioner was convicted, but on appeal, the parties have entered into compromise and the petitioner was acquitted from the charges. Since the entire criminal proceedings is nothing to do with the petitioner's service, this Court is inclined to interfere with the impugned order.

9. The next contention that was raised by the petitioner is that the punishment order is unimplementable order. Since the punishment order was issued on 16.06.2015 for stoppage of increment for a period of three years with cumulative effect, whereas the petitioner has attained superannuation on 31.05.2016. On appeal, the Appellate authority has passed an order, dated 30.05.2016 i.e., one day before the date of superannuation, whereas the



W.P.(MD)No.15499 of 2018

WEB COPY

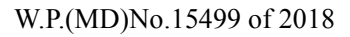
punishment was reduced to stoppage of increment for three years without cumulative effect. The said unimplementable order, cannot be executed, because the petitioner was on the verge of retirement. Hence, the impugned order is liable to be quashed on this ground also.

10. Accordingly, the impugned order, dated 30.05.2016 is hereby quashed. The respondents are directed to pay all monetary and terminal benefits within a period of eight weeks, from the date of receipt of a copy of the order.

11. With these directions and observations, this Writ Petition is allowed. No Costs.

Index : Yes / No
Internet : Yes
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06.06.2023



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W.P.(MD)No.15499 of 2018

S.SRIMATHY, J

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**Order made in
W.P.(MD)No.15499 of 2018**

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