



W.P.(MD).No.23256 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23256 of 2023

S.Maheswaran

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Karaikudi Region,
Maruthupathi, Managiri,
Karaikudi,
Sivagangai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned charge memo in TNSTC / KKD/DS-5973/FAT01/D3-309/2023, dated 21.08.2023 issued by the respondent and quash the same.

For Petitioner : Mr.P.Vijaynivas

For Respondent : Mr.K.Ramaiah
Standing Counsel



W.P.(MD).No.23256 of 2023

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ORDER

The present writ petition has been filed seeking to call for the records relating to the impugned charge memo in TNSTC / KKD/DS-5973/FAT01/D3-309/2023, dated 21.08.2023 issued by the respondent and quash the same.

2. The petitioner is working as Driver in Tamil Nadu State Transport Corporation (Kumbakonam) Limited at Devakottai Branch. On 08.07.2023 at about 03.00 p.m., he was driving the corporation bus near Santhaipettai bus stop, Melur, a minor boy riding a two wheeler without driving licence suddenly crossed the road without heeding horn alarmed by the petitioner. On seeing the same, though the petitioner managed to turn the bus on the extreme right to avoid the accident, he dashed on the front side of the bus and died on the spot as he did not worn helmet.

3. An F.I.R was registered in Crime No.442 of 2023 by Melur Police for the above said accident and after conducting proper enquiry, the same was culminated in filing a final report, in which the petitioner's name was removed



W.P.(MD).No.23256 of 2023

observing that there is no mistake on the part of the petitioner. Despite that, the respondent had suspended the petitioner from service vide proceedings, dated 10.07.2023. Pursuant to the same, the petitioner was issued with a charge memo vide proceedings of the respondent, dated 21.08.2023 for the same accident. Challenging the same, this writ petition came to be filed.

4. The issue in this case is no more res integra and already this Court dealt with a similar matter 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]***, in which this Court passed a favourable orders to the petitioner. The relevant portion of which is extracted 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 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



W.P.(MD).No.23256 of 2023

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

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.”



W.P.(MD).No.23256 of 2023

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5. In view of the above, this Court is of the view that the above order squarely covers the entire issue involved in this writ petition. Therefore, in the light of the order cited supra, this Court quash the impugned charge memo, dated 21.08.2023.

6. Accordingly, this Writ Petition stands disposed of. No costs.

25.09.2023

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

The General Manager,
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(Kumbakonam) Ltd.,
Karaikudi Region,
Maruthupathi, Managiri,
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Sivagangai District.



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W.P.(MD).No.23256 of 2023

L.VICTORIA GOWRI, J.

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W.P.(MD).No.23256 of 2023

25.09.2023