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W.P.No.36070

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.02.2024

PRONOUNCED ON : 02.07.2024

CORAM:

THE HON'BLE Dr. JUSTICE D.NAGARJUN

W.P.No.36070 of 2016

C.Ravichandran

...Petitioner

versus

1.The Managing Director

Metropolitan Transport Corporation (Chennai) Limited.,
Anna Salai,
Chennai-600 002.

2.The Senior Deputy & HRD Manager,

Metropolitan Transport Corporation (Chennai) Limited,
Anna Salai,
Chennai-600 002.

3.The Branch Manager,

Metropolitan Transport Corporation (Chennai) Limited,
Vadapalani Depot,
Chennai-600 026.

... Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling records pertaining to the impugned Action Order in No.3668/Sabi(OoNa)6/mtc/2015 issued by 2nd respondent on 15.04.2016 and quash the same.

For Petitioner : Mr.Ezhilra

For Respondents : Mr.C.Gauthamaraj



ORDER

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2. The facts in brief as per the affidavit are that the petitioner joined the services of the 1st respondent Metropolitan Transport Corporation as a Driver on 13.01.1998. On 05.01.2015 at 5.00 a.m., petitioner went to the depot where he was working and signed the attendance registrar. Suddenly his health deteriorated and he reported the same to the Controller by name Mr.Sekhar, who asked the petitioner to strike the signature in the attendance registrar and leave for home. Accordingly, he has struck his signature in the attendance registrar and left for home.

3. On 17.06.2015, a notice vide Reference Number 3668/Sabi(OoNa)6/mtc/2015 issued by Senior Deputy & Human Resource Manager asking for explanation with regard to his absence on 05.01.2015 stating that on account of petitioner's absence huge loss was sustained by the corporation. The said notice dated 17.06.2015 was sent by the 2nd respondent on 19.11.2015 and issued to the petitioner. The petitioner has replied to the notice on 17.12.2015 explaining the circumstances and also sought for six documents including the attendance registrar dated 05.01.2015 in order to give suitable reply. Again another notice was issued on 13.01.2016 asking to give reply within three days from the receipt of notice. The petitioner has replied again and also requested again to provide the documents. However, without conducting



any enquiry, the respondent has issued final orders on 15.04.2016 stopping increments for a period of six months. Aggrieved by the same, the petitioner has preferred this Writ Petition.

4. The learned counsel for the respondents has filed the counter affidavit stating that the petitioner who is a workman in the respondents corporation governed by standing orders of the corporation the petitioner has to approach the appropriate labour Court under the Industrial Dispute Act.

5. Heard both sides and perused the records.

6. The petitioner has attended the work on 05.01.2015 at 05.00 a.m., and since his health deteriorated as per the advice of the controller by name Mr.Sekhar, he struck his signature from the attendance registrar and went back to home. After eleven months of the said incidents, 19.11.2015, a notice was issued to the petitioner by the respondents asking for explanation with regard to the absence of the petitioner on 05.01.2015. The petitioner has filed a copy of the salary slip to show that leave was marked on 05.01.2015 to the petitioner. Once leave was marked, then the notice given by the respondent stating that on account of petitioner's absence on 05.01.2015, the corporation has sustained huge loss is totally un-called for.

7. Further, the petitioner was absent on 05.01.2015, if at all, his absence has caused any administrative inconvenience, it is expected that the respondents ought to have given notice within few days from the alleged incidence i.e., on 05.01.2015. However, a notice was issued to the petitioner in the month of



November 2015 after more than ten months. The said notice as already observed above was signed on 19.11.2015, which clearly shows that the malafide intention of the respondent for giving a notice to the petitioner after 11 months, putting a date of 17.06.2015, signing on 19.11.2015 by alleging that on account of absence of petitioner, respondent corporation sustained huge loss. As already observed on 05.01.2015 petitioner though attended the office and left to home on account of his ill health condition and his absence was recorded as leave, thereby, such notice should not have been given by the respondents.

8. Further the petitioner on receipt of notice dated 17.06.2015, signed on 19.11.2015 has replied seeking six documents including copy of the attendance registrar dated 05.01.2015. However, the respondent has declined to give those records to the petitioner. Once the notice has been given to the petitioner seeking explanation as to what happened and why the petitioner could not attend the office on 05.01.2015, the petitioner is expected to inspect the documents including the attendance registrar, however, that opportunity has not been given to the petitioner. The respondent has given one more notice on 13.11.2016 to the petitioner to explain about his absence on 05.01.2015 for which the petitioner has issued again replied requesting to furnish the documents, but inspect of that the document have not been furnished. But surprisingly, the final orders have been passed on 15.04.2016, stopping of increments for a period of six months.

9. Passing of these kind of orders is purely utter violation of principles of natural justice. At the first place, notice should have been given as on 05.01.2015 his absence is recorded as leave. Even if such notice petitioner



demanded some documents to give reply. Those documents were not furnished to the petitioner. Even if the documents were not furnished, in respect of absence, an enquiry should have been conducted and opportunity should have been given to the petitioner seeking explanation. According to him, he as attended the office signed the attendance registrar and as per the advice of the Mr.Sekhar on account of his ill health, he has struck his name in the attendance registrar and left for home. If the attendance registrar was allowed to be inspected and Mr.Sekhar who was controller was examined then the truth of event that happened on 05.01.2015 would have revealed. Considering the discussions made above it is clear that the issuing of impugned proceedings of stoppage of increments for a period of six months is not sustainable and accordingly, issuing of impugned Action Order in No.3668/6/mtc/2015 issued by 2nd respondent on 15.04.2016 stopping of increments of the petitioner for the period of six months is erroneous.

10. It is submitted by the learned counsel for the respondent that the petitioner cannot maintain the Writ Petition directly without approaching the appropriate forum by following the due process under Industrial Dispute Act. It is to be notice that the respondent which has not followed the principles of natural justice and has punished the petitioner without conducting an enquiry, now has taken a defence that the Writ Petitioner should not have been filed and should have approached the authorities under the Industrial Dispute Act. It is also to be noted that the Writ petitioner has approached this Court under 226 of Constitution of India solely on the ground that principles of natural justice have not been followed, therefore, there is no impediments the petitioner in approaching this Court directly. Considering the discussions made above, the



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petitioner has made out a case.

WEB COPY 11. Accordingly Writ Petition is allowed, impugned Action Order in No.3668/6/mtc/2015 issued by 2nd respondent on 15.04.2016 stopping of increments of the petitioner for the period of six months is hereby set aside.

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Index : Yes / No
Speaking/Non-speaking Order
Neutral Citation: Yes/No
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To

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Dr.D.NAGARJUN, J.

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Pre-Delivery Order
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