



WEB COPY



W.A.No.1469 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

Writ Appeal No.1469 of 2021

C.Kuppusamy

... Appellant

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore Division-II) Limited,
Mettupalayam Road,
Coimbatore - 641 043.
2. The General Manager,
Tamil Nadu State Transport Corporation,
(Coimbatore Division - II) Limited,
Erode Region, Chennaimalai Road,
Erode - 638 001.
3. The Branch Manager,
Karur Branch Deport,
Tamil Nadu State Transport Corporation,
(Coimbatore Division - II) Limited,
Karur.

... Respondents



W.A.No.1469 of 2021

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P.No.28582 of 2019 dated 13.01.2020.

For Appellant : Mr.K.Balasubramaniam

For Respondents : Mr.M.Murali Vinodh

J U D G M E N T

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

The present writ appeal has been instituted challenging the order dated 13.01.2020 passed in W.P.No.28582 of 2019.

2. The writ petitioner is the appellant before us. The appellant was appointed as Driver in the respondents/State Transport Corporation, Coimbatore division in the year 2007. The appellant tendered his resignation to the 3rd respondent on 14.06.2019. Admittedly, the said resignation was accepted by the 1st respondent in proceedings dated 06.09.2019.



W.A.No.1469 of 2021

3. Mr.K.Balasubramaniam, learned Counsel appearing on behalf of the appellant would submit that before issuing an order accepting resignation in proceeding dated 06.09.2019, the appellant has given a withdrawal letter on 03.09.2019. The said letter of withdrawal of resignation was sent through E-mail to the respondents on 03.09.2019 at 01:22 P.M. Since the letter of withdrawal was served on the respondent prior to the acceptance of order of resignation dated 06.09.2019, the learned Single Judge has committed an error in dismissing the writ petition.

4. Mr.M.Murali Vinodh, learned Standing Counsel appearing on behalf of the respondents/Transport Corporation would oppose by stating that the appellant ought to have submitted a letter of withdrawal within a period of 15 days. To substantiate the said limitation, the respondent has not produced any Service Rules. Thus, the said submission deserves no merit consideration. *Per Contra*, Rules have been relied on by the parties before the writ court. The writ court also extracted the Service Rules of Transport Corporation, more specifically, Rule 32, which reads as under:

"32. *Provision relating to resignation and re-employment:*
(a) (i) *Without prejudice to any specific provision made if this regard*



WEB COPY



W.A.No.1469 of 2021

in any other Rule, an Employee shall not quit the service of the Corporation unless gives notice, as specified in clauses (ii), (iii) are below, in writing of this intention to quit the service reimburses to the Corporation the salary (pay and allowances) in lieu of the notice period, and unless he is permitted by the Competent Authority to quit the service. Any sum due from the employee on this account i.e., salary in lieu of notice is liable to the recovered the money due to him from the Corporation.

(ii) A "workman" to whom the provisions of the Certified Standing Orders of the Corporation apply, be governed by the relevant provision in the Certified Standing Orders.

(iii) An employee holding a post in a Supervisory Group shall give a notice of two months or shall reimburses to the Corporation an amount equal to the salary for two months in lieu of such notice;

(iv) An employee holding a post in the Managerial Cadre shall give a notice of three months or shall reimburse to the Corporation an amount equal to the salary for three months in lieu of such notice.

Provided that an employee who is under the terms of a contract or bound to serve the Corporation for a specified minimum period under any agreement, shall not so leave the Corporation until after the expiry of such period.

Note-1: Resignation given by an employee cannot be accepted, if it is withdrawn by him before orders are actually accepting the resignation.



W.A.No.1469 of 2021

Note-2: Orders accepting the resignation shall be issued as expeditiously as possible."

WEB COPY

5. The above Rule would unambiguously indicate that the resignation given by the employee cannot be accepted, if it is withdrawn by him before orders are actually accepting the resignation.

6. In the present case, the facts are not disputed. The appellant submitted his letter of resignation on 14.06.2019. He served the letter of withdrawal of resignation on 03.09.2019 through E-Mail. Thereafter, acceptance of resignation was passed by the respondent in proceedings dated 06.09.2019. Thus, it is amply clear that the withdrawal of resignation was served by the appellant to the respondent before accepting the letter of resignation. Thus, the order impugned passed by the respondents is in violation of the Service Rules.

7. The learned Single Judge has not considered this aspect in the order impugned. Thus, we are inclined to interfere. Consequently, the writ order dated 13.01.2020 passed in W.P.No.28582 of 2019 is set aside and the



W.A.No.1469 of 2021

respondents are directed to re-instate the appellant within a period of four (4) weeks from the date of receipt of a copy of this order. The writ appellant is not entitled for backwages for the period during which he is out of employment. However, he is entitled for continuity of services for reckoning qualifying services and for pensionary benefits.

Accordingly, the Writ Appeal stands **allowed**. No costs.

[S.M.S., J.] [C.K., J.]
12.06.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda



W.A.No.1469 of 2021

To

WEB COPY

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore Division-II) Limited,
Mettupalayam Road,
Coimbatore - 641 043.
2. The General Manager,
Tamil Nadu State Transport Corporation,
(Coimbatore Division - II) Limited,
Erode Region, Chennaimalai Road,
Erode - 638 001.
3. The Branch Manager,
Karur Branch Deport,
Tamil Nadu State Transport Corporation,
(Coimbatore Division - II) Limited,
Karur.



WEB COPY



W.A.No.1469 of 2021

S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

veda

Judgment in
W.A.No.1469 of 2021

12.06.2024