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Writ Petition No.23288 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.23288 of 2024
and WMP No.25446 of 2024

K.Subramanian

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation (Cbe) Limited,
No.37, Mettupalayam Road,
Coimbatore – 641 043

2. The General Manager,
Tamil Nadu State Transport Corporation (Cbe) Limited,
Erode Region, 45,
Chennaiimalai Road,
Erode – 638 001

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari to call for the entire records pertaining to the Impugned Second Show cause Notice Dated 11.05.2024 in Ku.No.1 /D6 / 53/ Law / TNSTC / ER / 2023 issued by the 2nd respondent and quash the same.

For Petitioners : Mr.N.S.Sugunathan

For Respondents : Mr.C.Gouthamaraj
Standing Counsel for R1
Mr.M.Murali Vinodh
Standing counsel for R2



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ORDER

This writ petition has been filed challenging the show cause notice issued by the 2nd respondent dated 11.05.2024.

2. The case of the petitioner is that he was appointed as a Conductor in the 2nd respondent Corporation in the year 1992. Thereafter, he was promoted as a Checking Inspector in the year 2013. The further promotion was secured by the petitioner in the year 2021 as a Traffic Inspector. The date of superannuation of the petitioner was on 31.05.2023.

3. The grievance of the petitioner is that false complaints were filed against him for offence under Section 138 of the Negotiation Act and he was convicted and sentenced in four cases by the Judicial Magistrate Fast Track Court I, Erode in the following manner :-

<i>Sl.No.</i>	<i>Case No.</i>	<i>Date of Judgement</i>	<i>Result</i>
1.	STC No.421 of 2019	04.03.2023	3 months simple imprisonment and compensation of Rs.1,50,000/- within 3 months i/d 1 month simple imprisonment



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<i>Sl.No.</i>	<i>Case No.</i>	<i>Date of Judgement</i>	<i>Result</i>
2.	STC No.123 of 2020	07.03.2023	3 months simple imprisonment and compensation of Rs.2,50,000/- within 3 months i/d one month simple imprisonment
3.	STC No.144 of 2020	28.02.2023	3 months simple imprisonment and compensation of Rs.2,00,000/- within 3 months i/d 1 month simple imprisonment
4.	STC No.180 of 2022	07.03.2023	3 months simple imprisonment and compensation of Rs.2,00,000/- within 3 months i/d 1 month simple imprisonment.

4. The petitioner aggrieved by the above judgement and order convicting and sentencing him for offence under Section 138 of the Negotiable Instruments Act also filed appeals which were pending before the II Additional District Judge, Erode. In the meantime, the 2nd respondent initiated disciplinary proceedings by issuing charge memos mainly on the ground that the petitioner was convicted by a competent Court for offence under Section 138 of the Negotiable Instruments Act.

5. The petitioner was also suspended from service through proceedings dated 30.05.2023. He was not permitted to retire from service through proceedings of the 2nd respondent dated 31.05.2023.



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6. Based on the charge memo issued against the petitioner, an enquiry was conducted by appointing an enquiry officer. Enquiry reports were submitted and an explanation was called for from the petitioner. The petitioner also gave his explanation. In spite of the same, the 2nd show cause notice dated 11.05.2024 came to be issued by the 2nd respondent which has been put to challenge in the present writ petition.

7. Heard Mr.N.S.Sugunathan, learned counsel for the petitioner and Mr.C.Gouthamaraj, learned Standing Counsel for 1st respondent and Mr.M.Murali Vinodh, learned Standing counsel for 2nd respondent.

8. The learned counsel for the petitioner submitted that the petitioner was not furnished with the basic report which will be prepared even before the charge memo is issued. That apart, sufficient time was not given to the petitioner to submit the explanation and the respondent was proceeding further in an hasty manner.



9. Per contra, the learned Standing Counsel appearing

on behalf of the respondents submitted that all the materials that are relied upon by the Corporation has been furnished to the petitioner and the petitioner has also been given sufficient opportunity. Therefore, it was contended that the petitioner is attempting to drag on the proceedings and hence, the learned Standing counsel sought for the dismissal of the writ petition.

10. In the considered view of this Court, the basis on which the disciplinary proceedings was initiated against the petitioner was the judgement of conviction and sentence rendered by the competent Criminal Court against the petitioner for offence under Section 138 of the Negotiable Instrument Act. The petitioner has already taken his defence. The enquiry officer has submitted the report and the enquiry report has also been furnished to the petitioner. The petitioner has also given his explanation to the report of the enquiry officer. On receipt of the same, the 2nd show cause notice has been issued by the 2nd respondent calling for further explanation and to show cause as to why the petitioner should not be dismissed from service.



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11. The petitioner has been served with all the necessary materials that are relied upon by the respondent corporation. The so called basic report that is now sought for by the petitioner becomes irrelevant since the petitioner is proceeded with based on the charge memo, enquiry report and the explanation given by the petitioner. The basic report is not going to come up with any different story except the fact that the disciplinary proceedings have been initiated only based on the conviction and sentence imposed against the petitioner for offence under Section 138 of the Negotiable Instruments Act. The petitioner has also laid his defence by informing the respondents that he has filed an appeal before the competent Court.

12. The petitioner has to necessarily give his explanation for the 2nd show cause notice issued by the 2nd respondent dated 11.05.2024. This Court does not find any ground to interfere with the impugned 2nd show cause notice. Hence, in order to afford sufficient opportunity to the petitioner to give his detailed explanation for the 2nd show cause notice, there shall be a direction to the petitioner to submit his explanation for the 2nd show cause notice dated 11.05.2024 within a period of four weeks from today. On receipt of the explanation from the



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petitioner, it is left open to the 2nd respondent to continue further with the proceedings on its own merits and in accordance with law.

13. This writ petition is disposed of in the above terms.

No costs. Consequently, the connected miscellaneous petition is closed.

19.08.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

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Issue order copy on 28.08.2024



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N.ANAND VENKATESH, J

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To

1. The Managing Director,
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Coimbatore – 641 043
2. The General Manager,
Tamil Nadu State Transport Corporation (Cbe) Limited,
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