



WEB COPY



W.P. No. 26178 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 26178 of 2019

and

W.M.P. No. 25538 of 2019

S. Nehru

... Petitioner

Vs.

1.The General Manager,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Bharathipuram, Salem Main Road,
Dharmapuri.

2.The Managing Director,
TNSTC (Salem) Ltd.,
Salem – 636 007.

3.The Assistant Manager,
TNSTC (Salem) Ltd.,
Salem – 636 007.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in Ka.No.Ku.A2/6214/Sattapirivu/TNSTC/Salem/2017 dated 13.02.2017 of the third respondent, to quash the said orders and issue consequential directions to the respondents to reinstate the petitioner in service with consequential benefits of back wages, continuity of service etc and to allot the petitioner alternative employment with light duties.

For Petitioner : Mr. J. Muthukumaran

<https://www.mhc.tn.gov.in/judis>



W.P. No. 26178 of 2017

For Respondents : Mr. M. Aswin, Standing Counsel

ORDER

This Writ Petition has been filed for the issuance of writ of certiorarified Mandamus, to call for the records in Ka. No. Ku. A2 / 6214 / Sattapirivu / TNSTC / Salem/2017 dated 13.02.2017 of the third respondent, to quash the said orders and issue consequential directions to the respondents to reinstate the petitioner in service with consequential benefits of back wages, continuity of service etc and to allot the petitioner into alternative employment with light duties.

2. Learned counsel for the petitioner submits that, the petitioner who worked as Conductor in the respondent-Corporation was dismissed from service by order dated 09.02.2011 passed by the first respondent. The charge levelled against the petitioner for dismissing from service is that he unauthorisedly absent from 25.07.2008.

2.1. Learned counsel for the petitioner further submits that, he submitted a representation to the respondents to consider him to post him any light duties. Subsequently, he filed a writ petition in W.P. No. 9654 of 2013 and it was disposed of, by order dated 18.10.2016, with a direction to the respondents to consider the representation of the petitioner.



2.2. Learned counsel for the petitioner further contends that the respondents erroneously rejected the representation of the petitioner. Aggrieved by the same, the present writ petition has been filed.

3. A counter affidavit has been filed on behalf of the respondents. Based on the averments of the counter affidavit, the learned Standing Counsel appearing for the respondents submits that disciplinary action was initiated against the petitioner for charges of unauthorised absent and after following all formalities, the petitioner was dismissed from service on 09.02.2011.

3.1. Learned Standing Counsel further contends that the Special Deputy Commissioner of Labour, Chennai has awarded the approval for the dismissal of the petitioner under Section 33(2)(b) of the I.D. Act vide order dated 26.12.2012 in A.P. No. 56 of 2011. In compliance of the order in W.P. No. 9654 of 2013, the respondents considered the representation of the petitioner and it was rejected by order dated 13.02.2017 due to his contrary cause reports.

3.2. Learned Standing Counsel further submits that the petitioner without challenging the award of order dated 26.12.2012 in A.P. No. 56 of 2011, the petitioner cannot challenge the dismissal order dated 09.02.2011 after a lapse of three years. As such, he would submit that, this writ petition is not maintainable and sought to dismiss the same.



4. Having considered the submissions of the respective counsel and on perusal of the material available on record, it is an admitted fact that the petitioner was dismissed from service by order dated 09.02.2011. The said order was not under challenge till now. Meanwhile, the respondents obtained order dated 26.12.2012 in A.P. No. 56 of 2011 from the Special Deputy Commissioner of Labour, Chennai awarding the approval for the dismissal of the petitioner. It is also an admitted fact that, till now the order dated 09.02.2011, of the first respondent dismissing the petitioner from service, is not under challenge in any forum including this Court. Without challenging the order of dismissal from service before the appropriate forum, the petitioner is not entitled to approach this Court for the relief sought in the present writ petition.

5. Accordingly, this Writ Petition is dismissed.

6. However, considering the request of the learned counsel for the petitioner, liberty is granted to the petitioner to approach appropriate forum to ventilate his grievances against the order dated 09.02.2011 wherein, the petitioner was dismissed from service.

7. Consequently, connected miscellaneous petition is closed. There shall be no



order as to costs.



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Index :Yes/No

Neutral Citation :Yes/No

AT

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