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W.P.No.29447 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.29447 of 2022

and

W.M.P.Nos.28782 & 28784 of 2022

M.Manoharan

... Petitioner

-Vs-

1.The Managing Director,
Tamil Nadu State Transport Corporation,
No.12, Ramakrishna Salai,
Salem - 636 007.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Salem Division,
No.12, Ramakrishnan Road,
Salem - 7.

3.The Branch Manager,
Mettur Branch,
Tamil Nadu State Transport Corporation,
Mettur, Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India praying for the issuance of Writ of Certiorari, calling for records pertaining to the final order in கு.எண்.854-29534-டி3-த.அ.பே.க-2015 dated 18.05.2016 and final order கு.எண்.24-1457- டி3-த.அ.பே.க-2017 dated 23.10.2017 issued by the 2nd respondent and quash the same.



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For Petitioner : Mr.R.Muruga Bharathi

For Respondents : Mr.K.Raja
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent dated 23.10.2017 thereby imposed punishment of stoppage of increment for the period of two years with cumulative effect.

2. The petitioner is working as Driver under the 3rd respondent. He is active member of Labour Welfare Protection Trade Union and he used to heading the movement for promoting the work culture among its members. Therefore, the respondents developed grudge against the petitioner. While being so, FIR was registered in Cr.No.444 of 2015 for the offences under sections 279, 337 and 304(A) of IPC. The petitioner was served with charge memo alleging that the petitioner had caused accident due to his negligence. Due to the said accident, the transport bus and the two wheeler were damaged and one person died. In pursuant to the charge memo, enquiry was conducted and the petitioner was punished with stoppage of increment for two years with cumulative effect.



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3. On perusal of the records revealed that the FIR has been registered as against the petitioner. After completion of investigation, the Inspector of Police, Pangalaputhur Police Station filed a final report and thereby closed the FIR as mistake of fact, as the accident was not occurred due to negligence of the petitioner. When the petitioner was riding his bus, the deceased and the rider of TVS 50 motor cycle had driven his two wheeler in a rash and negligent manner and trying to overtake from the lorry. At that time in the opposite direction, petitioner's transport bus was cut and dropped in low down place and the petitioner's transport bus was damaged. Therefore, the pillion rider of the two wheeler sustained severe injury and died. The petitioner submitted his detailed report stating that he was not responsible for the accident and only due to negligence on the part of the two wheeler, the accident was taken place. Thereafter, in the year 2017, the writ petitioner met with another accident while he was driven the bus at that time in the opposite direction, one lorry driven in a rash and negligent manner and met with accident with the petitioner's bus. Due to which the petitioner, conductor and more than 20 passengers were injured and finally four passengers were died. On receipt of the complaint lodged by the petitioner, the Inspector of Police, Mettur Police Station



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registered FIR in Cr.No.11 of 2017 for the offences under sections 279, 337, 338 and 304(A) of IPC as against the lorry driver. It is pending investigation and no charge sheet has been laid so far.

4. The learned counsel for the respondents submitted that so far the petitioner, 17 disciplinary actions were taken as against the petitioner. On perusal of the 17 disciplinary actions, except the FIR registered cases against the petitioner, all other cases are trivial in nature and he damaged tyre and as such, he was fined for those actions. Other punishments are for unauthorized absence for seven days and two days. In respect of other punishments are concerned, due to causing damages to the bus. Therefore, it shows that no serious offence committed by the petitioner in order to charge the petitioner. In fact, one FIR was registered in the year 2017 as against the lorry driver and it is pending for investigation. Insofar as other FIR registered against the petitioner, it was closed as mistake of facts, since the accident was occurred due to negligence on the part of the Two wheeler. Therefore, it is seen from the records that only because of the involvement of the petitioner in the said occurrence, he was imposed with punishments. In the present FIR, it has been awaited for closure of FIR as mistake of fact. Therefore, the punishment imposed as against the petitioner is disproportionate to the charges. In fact, the criminal charge also was not proved against the petitioner and the same was



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closed as mistake of fact.

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5. Therefore, the orders passed by the 2nd respondent dated 18.05.2016 is liable to be quashed. Accordingly, only the order in கு.எண்.854-29534- டி3-த.அ.பேர.க-2015 dated 18.05.2016 passed by the 2nd respondent is quashed. Insofar as another order dated 23.10.2017, it is only the order for treating the petitioner's suspension period as leave. Insofar as challenging the order passed by the 2nd respondent in கு.எண்.24-1457- டி3-த.அ.பேர.க-2017 dated 23.10.2017, it cannot be considered. Accordingly, this writ petition stands partly allowed. Consequently, Connected miscellaneous petitions are closed. No costs.

29.01.2024

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

gvn

To

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