



W.P(MD)No.1355 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.1355 of 2024
and
W.M.P(MD)No.1404 of 2024

S.Sigamani

... Petitioner

Vs.

**1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Kumbakonam,
Thanjavur District.**

**2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Pudukkottai Region,
Pudukkottai.**

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned order of the 2nd respondent in Tha.Aa.Po.Ka/Pudu/Sadu/S.M/34, dated 31.08.2023 quash the same as illegal and consequently directing the respondents to grant monetary and promotional benefits to the petitioner by cancelling the punishment imposed on the



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petitioner by cancelling the punishment imposed on the petitioner in the light of the judgment passed in S.T.C.No.526 of 2011, dated 12.09.2013.

For Petitioner : Mr.D.Anbarasu
For Respondents : Mr.K.Ramaiah
Standing Counsel

ORDER

The present writ petition has been filed to call for the entire records in connection with the impugned order of the 2nd respondent in Tha.Aa.Po.Ka/Pudu/Sadu/S.M/34, dated 31.08.2023 quash the same as illegal and consequently directing the respondents to grant monetary and promotional benefits to the petitioner by cancelling the punishment imposed on the petitioner by cancelling the punishment imposed on the petitioner in the light of the judgment passed in S.T.C.No.526 of 2011, dated 12.09.2013.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is working as a Driver in the respondent Transport Corporation from the year 1998. His service was regularized in the academic



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year 1999. On completion of 6 years, he was given promotion and his next promotion is due on 2012. While so, on 03.08.2011, he was placed under suspension on the ground that he caused an accident on 21.09.2008. Subsequently, the said suspension order was revoked and punishment of stoppage of increment for three years with cumulative effect was also imposed on him. However, for the accident caused, a criminal case in S.T.C.No.526 of 2011 on the file of the Judicial Magistrate, Pattukottai was registered against the petitioner. After a full fledged trial, vide judgment dated 12.09.2013, the petitioner was acquitted from the case. That apart, the respondents also imposed a punishment in the year 2014 by awarding stoppage of increment for two years with cumulative effect. However, the petitioner was not granted with any promotional benefits thereafter. Hence, he made a representation on 19.02.2020 claiming monetary and promotional benefits in view of the judgment passed in S.T.C.No.526 of 2011, dated 12.09.2013. Since the same was not considered, the petitioner filed W.P(MD)No.9980 of 2023 before this Court. This Court vide order, dated 26.04.2023 has directed the 1st respondent to dispose of the petitioner's representation and pass final orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of the order.



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4. In compliance with the order of this Court, the 2nd respondent passed the impugned order, dated 31.08.2023 rejecting the name of the petitioner stating that he was not honourably acquitted from the criminal case. Challenging the same, this writ petition came to be filed.

5. The issue in this case is no more res integra and also this Court has dealt with a similar matter in ***W.P(MD)No.14780 of 2018, dated 10.07.2018 [M.Sathiyaseelan Vs. The Managing Director, Tamil Nadu State Transport Corporation (Madurai) Limited, Madurai]***, in which this Court passed a favourable orders to the petitioner. The relevant portion of which is extracted as follows:

“10.In clause 61 of the Settlement under Section 12(3) of I.D.Act, between the employer and employees, the following has been provided:

“Disciplinary Action in Accident Cases

61.Where a driver involved in an accident and held guilty of charge in domestic enquiry, subsequently honourably acquitted in the criminal case, the decision in the disciplinary case on the same charge may be revised based on the orders of the Court. However, if the acquittal is by benefit of doubt, no such revision is necessary.”



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11.Only in order to meet such circumstances, where, even though if a Driver is found guilty of charge on domestic enquiry and if he subsequently acquitted honourably in the criminal case and if decision on the disciplinary proceedings was taken on the same charge, it can be revised based on the orders of the Court. Here, in the case in hand, departmental enquiry conducted only on the same charge of the accident and based on which punishment was imposed against the petitioner. However, the very same accident case, after having investigated by the concerned police, ended in action dropping by final report dated 24.03.2010, where the police has given categorical finding that the petitioner was not guilty. Even in case, where police filed final report and if trial is conducted and ultimately the competent criminal Court acquitted the accused/employee honourably, even in that circumstances, the decision of the competent criminal Court can be taken into account by the disciplinary authority to review or revise the punishment inflicted on the employee pursuant to the domestic enquiry.

12.Here in the case in hand, even after investigation, the police came to a conclusion that action has to be dropped against the petitioner with a clear finding that the petitioner is not guilty. The said final report filed by the police was accepted by the criminal Court and accordingly, the case was closed. Therefore, as per clause 61 of the 12(3) Settlement as has been referred to above, the petitioner's case i.e. the punishment inflicted for him



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pursuant to the departmental enquiry as modified by the appellate authority shall be reviewed and in fact revised.

13.Even though, in this regard, the petitioner made a request through his lawyer by legal notice, so far, no action seems to have been taken by the respondents. Therefore, there is every justification on the part of the petitioner to approach this Court, where the petitioner has made out a case

14.In that view of the matter, this Court is inclined to pass the following order:

“The respondents are hereby directed to revise the punishment inflicted on the petitioner as modified by the appellate authority in view of the action dropped report dated 24.03.2010 filed by the investigation agency, i.e. (police) before the Judicial Magistrate No.1, Dindigul on 24.03.2010 in the light of clause 61 of the Settlement under Section 12(3) of I.D. Act between the employer and employees and pass an order revising the said punishment of the petitioner. The said order shall be passed by the respondents, within a period of six weeks from the date of receipt of a copy of this order. It is needless to mention that once an order passed to that effect revising the said punishment, consequential service benefits on the petitioner, for which, the petitioner is entitled to shall be extended to him.

15.With the above direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.”



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6. Fully fortified by the above said order extracted supra, the impugned order, dated 31.08.2023 is hereby quashed and the respondents are directed to revise the punishment of stoppage of increment for 2 years with cumulative effect inflicted on the petitioner in the light of clause 61 of the Settlement under Section 12(3) of Industrial Disputes Act between the employer and the employees and pass order revising the said punishment of the petitioner. The same shall be passed by the respondents within a period of six (6) weeks from the date of receipt of copy of this order. It is needless to mention that once an order passed to that effect revising the said punishment, consequential service benefits of the petitioner, for which the petitioner is entitled to shall be extended to him.

7. With the above said observations, this Writ Petition stands allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

23.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

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