



W.P(MD)No.2271 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.2271 of 2024

P.Selvaraj

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Transport Corporation
(Kumbakonam) Limited,
Kumbakonam,
Thanjavur District.

2.The General Manager,
Tamil Nadu Transport Corporation
(Kumbakonam) Limited,
Trichy Region,
Periyamilaguparai,
Trichirapalli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to re-calculate petitioner's salary, other allowances and retirement benefits by taking the petitioner's basic salary and other allowances before imposing the punishment of stoppage of increment for



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the period of two years with cumulative effect on the basis of order passed by the Judicial Magistrate, Thuraiyur made in C.C.No. 335/2001 dated 16.10.2003 and further direct the respondents 1 and 2 to pay the petitioner difference amount of salary and other allowances along with 6% interest per annum within the time limit that may be stipulated by this Court.

For Petitioner : Mr.N.Sudhagar Nagaraj

For Respondents : Mr.K.Jagadeesh Balan
Standing Counsel

ORDER

The present writ petition has been filed seeking direction to the respondents respondents 1 and 2 to re-calculate petitioner's salary, other allowances and retirement benefits by taking the petitioner's basic salary and other allowances before imposing the punishment of stoppage of increment for the period of two years with cumulative effect on the basis of order passed by the Judicial Magistrate, Thuraiyur made in C.C.No. 335/2001 dated 16.10.2003 and further direct the respondents 1 and 2 to pay the petitioner difference amount of salary and other allowances along with interest at 6% per annum within the time limit that may be stipulated by this Court.



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2. By consent of both the parties, this Writ Petition is taken up for final disposal, at the time of admission itself.

3. The petitioner joined into the services of the second respondent transport corporation on 14.11.1985. On attaining the age of superannuation, he retired on 30.04.2014. On 11.09.2001, he was driving the corporation bus belonging to the respondent Corporation bearing Registration No.TN-45N-0904 from Thuraiyur to Samayapuram. At about 05.15 p.m, near Karattampatti Iluppoor pirivu road, though he drove the bus slowly and followed the traffic rules, one school student suddenly crossed the bus and accident took place. The said student was seriously injured. Immediately, the injured student was taken to the nearby hospital, but unfortunately one the way, he died.

4. An FIR was registered in Crime No.209 of 2001 by Tha.Pettai Police Station. Final report was filed and taken on file by the learned Judicial Magistrate, Thuraiyur in C.C.No.335 of 2001. During pendency of the proceedings before the learned Judicial Magistrate, Thuraiyur, the second respondent by proceedings No.தகபோத/கு.கோ.2 / 125 / 8580 / 2001 dated 17.04.2002 imposed the punishment of increment cut for two years



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with cumulative effect and the petitioner herein filed an appeal before the Managing Director against the order of the second respondent on 04.05.2002. The criminal case in C.C.No.335 of 2001 was taken on file by the learned Judicial Magistrate, Thuraiyur. After elaborate hearing, the learned Judicial Magistrate, Thuraiyur, acquitted the petitioner from the charge by an order dated 16.10.2003. After acquittal, the petitioner filed a representation before the respondents to re-calculate the retirement benefits before imposing punishment of stoppage of increment. No orders were passed till date. He filed another representation along with the order passed by the learned Judicial Magistrate, Thuraiyur made in C.C.No.335 of 2001 dated 16.10.2003 and requested the respondents to cancel the punishment pursuant to the order made in the above said criminal case. But the respondents till today, have not cancelled the punishment. Hence, the present writ petition came to be filed.

5. The issue in this case is no more *res integra* and already this Court 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



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State Transport Corporation (Madurai) Limited, Madurai), in which, this Court passed 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.”

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



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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 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



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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.”

6. In view of the above, fully fortified by the order passed by this Court which is extracted supra, necessarily in terms of Clause 61 of 12(3)



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settlement, the punishment inflicted on the petitioner in the departmental proceedings has to be reviewed. The respondents are hereby directed to revise the punishment inflicted on the petitioner, in view of the acquittal in criminal case in C.C.No.335 of 2001 on the file of the learned Judicial Magistrate, Thuraiyur, by order dated 16.08.2003, in the light of Clause 61 of the settlement under Section 12(3) of the ID Act and consequently, pass an order revisiting the said punishment of increment cut for two years with cumulative effect. 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. Once an order is passed to that effect revisiting the said punishment, consequential service benefits on the petitioner, for which, the petitioner is entitled to, shall be extended to him.

7. With the above direction, this writ petition is allowed. There shall be no order as to costs.

05.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

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To
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Tamil Nadu Transport Corporation
(Kumbakonam) Limited,
Kumbakonam,
Thanjavur District.
- 2.The General Manager,
Tamil Nadu Transport Corporation
(Kumbakonam) Limited,
Trichy Region,
Periyamilaguparai,
Trichirapalli District.

Copy to:

The Judicial Magistrate,
Thuraiyur.



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L.VICTORIA GOWRI, J.

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