



WP.(MD).No.7542 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.7542 of 2024
and
W.M.P.(MD)No.6915 of 2024

R.Jayabalan

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation (Kum) Ltd.,
Karaikudi Region,
Maruthupathi, Managiri,
Karaikudi,
Sivagangai District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned charge memo in TNSTC/KKD/DS-5657/FATO/D2-192/2023 dated 29.05.2023, issued by the respondent and quash the same.

For Petitioner	: Mr.P.Vijaynivas
For Respondent	: Mr.K.Ramaiah
	Standing Counsel

ORDER

By consent of both parties, this Writ Petition is taken up for



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final disposal at the stage of admission itself.

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2.This Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned charge memo in TNSTC/KKD/DS-5657/FATO/D2-192/2023 dated 29.05.2023.

3.The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioner is working as a Driver in Tamil Nadu State Transport Corporation (Kumbakonam) Limited at Kamuthi Branch. On 21.05.2023 at about 03.45 p.m., when the petitioner was plying the Corporation bus in Paramakudi-Ramnad Road, unexpectedly a two wheeler suddenly crossed the road without heeding to the horn blown by the petitioner. As the result of which, the petitioner managed to turn the bus on extreme left to avoid the accident. Despite the said initiative, the person who was riding the two wheeler, dashed on the front of the bus and died on the spot. In this regard, a FIR was registered in Crime No.130 of 2023 by the Paramakudi Police. Thereafter, proper enquiry was conducted and final report was filed by the Investigating Officer as action dropped since it was identified that there was no mistake on the part of the



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petitioner. Even then the petitioner was visited with charge memo dated 29.05.2023 in connection to the very same accident negating the final report as action dropped filed by the Investigating Officer with respect to Crime No.130 of 2023. Challenging the same, this Writ Petition came to be filed.

4.Heard the learned counsel appearing for the petitioner, the learned standing counsel appearing for the respondents and carefully perused the entire materials available on record.

5.The case in hand is no more integra. I have dealt with similar case in W.P.(MD)No.23243 of 2023 and have passed an order on 22.09.2023 in favour of the petitioner thereat and the relevant operation of which, is extracted as follows:-

“4. The learned Counsel appearing for the petitioner submitted that the issue involved in this case has already been settled by the decision of this Court 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] and hence, the learned Counsel prayed for the passing of similar order in this writ petition also and the relevant portion of the above said order reads as follows:



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“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 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.

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



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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.”

5. In view of the above, this Court is of the view that the above order covers the issue involved in this writ petition. Therefore, in the light of the order cited supra, the first respondent is directed to revisit the punishment inflicted on the petitioner, as per Clause 61 of the Settlement under Section 12(3) of I.D Act between the employer and employees and pass an order to that effect. The said order shall be passed by the respondents, within a period of six (6) weeks from the date of receipt of a copy of this order. It is needless to mention that once an order is passed for revisiting the punishment, consequential service benefits entitled



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to the petitioner shall be extended to him."

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6. Adopting the same in this case, this Court is of the considered view that the issue involved in the Writ Petition is fairly covered by the aforesaid order. Therefore, in the light of the order cited supra, the impugned order of charge memo dated 29.05.2023, is hereby quashed, by observing that, Clause 61 of the Settlement under Section 12(3) of Industrial Disputes Act between the employer and employee of the respondent Corporation has mandated that, if a driver is found guilty of charge on domestic enquiry and he is subsequently, acquitted honorary in a criminal case, if a parallel disciplinary proceedings has been initiated for the same charge, the decision in the disciplinary proceedings has to be revised based on the order of this Court. However, in the instant case, the Crime No.130 of 2023 registered by the Paramakudi Police as against the petitioner never culminated even in filing the final report but has been closed as action dropped.

7. In view of the same, the question of issuing of impugned charge memo as against the petitioner will not arise.



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8. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

27.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

The General Manager,
Tamil Nadu State Transport Corporation (Kum) Ltd.,
Karaikudi Region,
Maruthupathi, Managiri,
Karaikudi,
Sivagangai District.



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L.VICTORIA GOWRI, J.

Mrn

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