



W.P.(MD).No.13019 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.13019 of 2024
and WMP(MD) No.11559 of 2024

T.Jothimurugan

... Petitioner

Vs

1. The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli 627011.

2. The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli 627011.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in File No. 6231/Sa20/Tha.A.Po.Ka/Thili/2014, dated 09.12.2016 and quash the same as illegal and consequently direct the respondents to restore the petitioner's salary prior to the order passed by the 2nd respondent, dated 28.09.2016 with all consequential benefits.

For Petitioner : Mr. T. Veerakumar

For Respondents : Mr.K.Ramaiah
Standing Counsel



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ORDER

Heard Mr. T. Veerakumar, learned counsel for the petitioner and Mr.K.Ramaiah, learned Standing Counsel, for the respondents.

2.The petitioner has filed this Writ Petition challenging the impugned order passed by the 1st respondent in File No. 6231/Sa20/Tha.A.Po.Ka/Thili/2014, dated 09.12.2016 and consequently to direct the respondents to restore the petitioner's salary prior to the order passed by the 2nd respondent, dated 28.09.2016 with all consequential benefits.

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

4. The petitioner was given with charges of misconduct for causing accident by being negligent, in which, life of a person was lost. After subjecting the petitioner to disciplinary enquiry and at the end of enquiry, charges having been proved against the petitioner, the petitioner has been imposed with a punishment of stoppage of increment for a period of 3 years with cumulative



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effect. In the appeal preferred by the petitioner before the first respondent, the first respondent had modified the punishment and reduced it to 2 years without cumulative effect.

5.Now the petitioner has filed this writ petition stating that the order dated 09.12.2016 has not been passed on taking into account of his previous track record of his service, where he has not faced any charges.

6.The learned Standing Counsel appearing for the respondents submitted that despite the impugned order has been passed on 09.12.2016, the petitioner has chosen to initiate proceedings like filing writ petition only at a belated point of time. Hence, the petition is affected by delay and latches.

7.However, the learned counsel for the petitioner submitted that the challenge is only in respect of legality of the order, where the petitioner's past service has not been considered and that the subsequent development, in which, the petitioner has been acquitted in the criminal case filed against him.



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8.It is a settled proposition of law that standard of proof required in criminal proceedings is not similar to the standard of proof required in the disciplinary action. It is seen that the petitioner has been acquitted on benefit of doubts and it doesn't appear to be a honourable acquittal.

9.On perusal of impugned order, dated 09.12.2016 it is seen that the appellant authority namely the first respondent has not considered the past services of the petitioner, where he has maintained a good record. Even the appointing authority/2nd respondent has also not considered the relevant point and has chosen to pass the punishment, basing on the fact of the charges proved against the petitioner. Even though there cannot be any quarrel that the charges against the petitioner were proved, in the matter of punishment, little more consideration could have been shown by considering the past service records of the petitioner, if it is worth considering.

10.In view of the same, this writ petition is allowed and the impugned order in 6231/Sa20/Tha.A.Po.Ka/Thili/2014, dated 09.12.2016 is hereby set aside and the matter is remitted back to the first respondent to



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reconsider it in the light of above observations and pass appropriate orders afresh within a period of four weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli 627011.
2. The General Manager,
Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli 627011.



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R.N.MANJULA, J.

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