



WP(MD)No.10237 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.10237 of 2021
and
WMP(MD)No.7931 of 2021**

S.Suresh

... Petitioner

Vs

**The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam),
Karaikudi Region, Managri (PO),
Maruthupathi, Karaikudi,
Sivagangai District.**

... Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records pertaining to the impugned order of the respondent in Ref.No.TNSTC/TC/T3/9/19, dated 17.06.2019 quash the same as illegal.

For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.P.Balasubramani,

Special Government Pleader



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ORDER

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The petitioner / leader of the trade union was imposed with a punishment of stoppage of increment for the period of six months, which is challenged in this writ petition.

2.The learned Counsel for the petitioner submits that in view of the union activities of the petitioner and in order to intimidate the petitioner he was imposed with a punishment. He also submits that punishment has been imposed on the petitioner without even conducting any enquiry and without furnishing the documents based on which the charge memo was issued to this petitioner.

3. The learned Counsel for the respondent Corporation submits that the order of punishment cannot be challenged in this writ petition. This petitioner is an employee of the Transport Corporation and the remedy for this petitioner is only before the Labour Court by raising an industrial dispute and not before this Court. In support of this contention, he has also placed reliance on the decision of the Hon'ble Full Bench of this Court in ***P.Pitchumani Vs The Management of Sri Chakra Tyres Ltd, Madurai***



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reported in **2004 (3) CTC 1**. He further submits that as against the order of punishment the petitioner is having an appeal remedy before the Managing Director and without exhausting the appeal remedy as per the Standing Orders of the respondent Corporation, the petitioner has filed this writ petition. Therefore, the writ petition is not maintainable.

4.This Court considered the rival submissions and perused the materials placed on record.

5.The petitioner claims that he is the Regional Treasurer of the registered trade union. He was issued with a charge memo dated 19.03.2019 alleging that he had prevented the conductors, from entering the invoice as instructed by the Superintendent and also questioned the Superintendent for such instructions by her. Based on the complaint of the Superintendent, this charge memo dated 19.03.2019 was issued as against the petitioner.

6.The petitioner has submitted a representation requesting the management to produce certain documents including the complaint and also sought time for submitting his explanation based on those documents. However it was not produced to him. The Corporation issued a show cause



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notice to this petitioner on 19.05.2019 that they have decided to impose punishment. The petitioner has also raised his objections to the second show cause notice that the petitioner was not served with the basic documents, complaint. While so the Corporation has not conducted any enquiry and without considering the objections to the second show cause notice dated 19.05.2019, the petitioner was imposed with the punishment by order dated 17.06.2019.

7.The order of punishment dated 17.05.2019 is challenged in this writ petition and it has also been entertained by admitting this writ petition in the year 2021. At this distant point of time, this Court is not inclined to direct the petitioner to approach the appellate authority. Admittedly the petitioner was imposed with a punishment, without furnishing the documents and without even conducting any enquiry. It is in the opinion of this Court, violative of principle of natural justice. Therefore, this Court is inclined to interfere with the impugned order.

8.Accordingly the impugned order is set aside. The matter is remitted back to the respondent to conduct an enquiry by providing an opportunity of hearing to the petitioner and take a decision in accordance with the Standing



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Orders of the respondent Corporation. With this direction this writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

14.11.2024

Internet : Yes / No

Index : Yes / No

DSK

To

The General Manager,
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Corporation (Kumbakonam),
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B.PUGALENDHI.J.,

DSK

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