



W.P.(MD)No.16036 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.16036 of 2024

and

W.M.P.(MD)No.13940 of 2024

A.Sethumathavan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation (TVL) Ltd.,
Thoothukudi Road, K.T.C.Nager,
Tirunelveli.

2.The General Manager,
Tamil Nadu State Transport Corporation (TVL) Ltd.,
Thiruvandhapuram Road, Vannarpettai,
Tirunelveli.

3.The Administrator,
Tamil Nadu State Transport Corporations
Employees Pension Trust,
Thiruvalluvar Illam, SETC Ltd.,
Tamil Nadu Office, Pallavan Salai,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned dismissal order dated 07.03.2005 issued by the first respondent in No.8559/Sa6/AaBoKa/madurai/Tho.Li/03 and quash the same as illegal and consequently direct the respondents to make the petitioner to relive from service



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as compulsory retirement and further settle all terminal benefits like Service Gratuity, Provident Fund and to issue Monthly Pension in name of the petitioner and also to disburse pension arrears along with 6% of interest for belated payment within a stipulated period of time fixed by this Court.

For Petitioner : Mr.K.Gokul
For R1 & R2 : Mr.K.Ramaiah
Standing Counsel
For R3 : Mr.S.C.Herold Singh
Standing Counsel

ORDER

Heard Mr.K.Gokul, learned counsel for the petitioner and Mr.K.Ramaiha, learned Standing Counsel for the first and second respondents and Mr.S.C.Herold Singh, learned Standing Counsel for the third respondents.

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

3.The petitioner was appointed as Engineering Graduate Trainee on 02.06.1985 and he was later promoted as Selection Grade Assistant Manager and posted in the head office of the respondent Corporation at Tirunelveli on 31.05.1997. The petitioner got an offer to work in abroad and on his representation, he was sanctioned with leave for a period of one year to work in



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abroad. Then it got extended automatically for a period of five years.

Thereafter, the petitioner approached the respondent corporation to extend the leave period for another period of two years. However, the respondent issued a charge memo and after enquiry, dismissed the petitioner from service by order dated 07.03.2005. Challenging the same, the petitioner has filed this writ petition.

4.The learned counsel for the petitioner submitted that after the expiry of five years between 29.08.1997 to 30.08.2002, the petitioner made another representation for extending the leave for a period of further two years. The respondents without considering the said representation, issued the show cause notice against the petitioner and subsequently, dismissed the petitioner from service by proceedings of the first respondent dated 07.03.2005. The petitioner claimed that the proceedings have been passed in his absence and without giving him an opportunity of hearing and hence, the impugned order of dismissing the petitioner from service is liable to be set aside.

5.The learned Standing Counsel for the respondents submitted that the petitioner had obtained permission only till 30.08.2002 and thereafter, he did not report to duty and hence, the petitioner was given with a show cause notice and disciplinary action had been initiated against him and it resulted in



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dismissal from service. He further submitted that even in the permission granted to the petitioner for foreign service on 29.08.1997, it has been stated that the petitioner should seek further extension of leave by producing evidence that he is continuing in the same job for which the leave was obtained. But the necessary particulars have not been produced by the petitioner, except some unclear reasons by way of explanation to the show cause notice. Hence, the impugned was passed.

6.It is relevant to extract the terms of permission granted to the petitioner for better appreciation:

"1) Sanction of leave for one year for employment abroad will be treated as leave for employment abroad" without any pay and allowances.

2) After expiry of the one year leave the officer should seek further extension of leave by producing evidence that the continues continued to be in the same job.

3) This corporation will not undertake any financial liability in respect of the officer during the period on leave for employment abroad like leave salary, postage and medical reimbursement etc.

4) The period of leave for employment abroad will not count as service nor will it be taken into account for calculation of accrued leave.

5) The period of leave for employment abroad will not be counted for service benefits such as annual increment, salary and



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leave etc.

6) *The period of absence leave for employment abroad would be counted as service for purpose of pension, if necessary pension contribution are paid as per rules.*

7) *He should pay the appropriate pension contribution 3.33% (Pay+DA) to this Corporation every month without any break/omission.*

8) *He should remit recoverable loans outstanding if any admissible in this Corporation like P.F. Loan, H.B. which interest at the rate applicable as per rules should be charged on the sanction of loan.*

9) *On return from abroad, he should not claim any preference over others in this corporation for promotion or higher pay by virtue of his experience gained In foreign employment nor other qualifications required under the rules.*

10) *He should intimate this corporation in connection with the date of joining and his foreign address.*

11) *He should abide by the understanding already given by him dated 01.02.97 and if any deviations from these conditions/any false information he is liable for the consequence.”*

7. Admittedly, the petitioner was granted with leave on foreign service based on his representation. Leave on foreign service can be availed only for a period of five years. The petitioner is also aware that his request for further extension will not be considered and the petitioner could have presumed that his absence will result in disciplinary proceedings. However, the petitioner



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did not mind to come back and join duty and continued to be absent. Hence, an order has been passed for removing the petitioner from service on 07.03.2005.

8. According to the petitioner, he had given a representation for extension of two more years. Assuming that the petitioner is granted with leave for another two years, the petitioner has to produce the details of his employment status on and from the next date of expiry of the earlier leave period. However, the petitioner willfully absent to participate in any of the proceedings to know about the employment status. Hence, it cannot be considered as ignorance or inability to know about the pending proceedings.

9. The petitioner wantonly allowed the disciplinary proceedings to go on in his absence and he has challenged the same now, after a period of nearly 18 years for the reasons best known to him. In view of loss created by the petitioner to the respondent corporation in hiring one person in the post given to the petitioner and the manner in which he conducted the proceedings initiated against him, the order passed by the respondent Corporation removing the petitioner from service is quite appropriate and correct.

10. Apart from the above merits, the writ petition is also affected by delay and laches, for which the petitioner did not give any acceptable reasons.



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11.For the reasons stated above, this writ petition is dismissed.

However, it is up to the petitioner to make any representation to get back his service benefits, if any, for the period in which he was in service. No costs.

Consequently, connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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To

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R.N.MANJULA, J.

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