



W.P.(MD).No.19778 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.19778 of 2023

and

W.M.P(MD) No.16328 of 2023

S.Parthiban

... Petitioner

Vs.

1. The Management of Tamil Nadu State
Transport Corporation (Kumbakonam) Limited,
The Managing Director,
Kumbakonam.

2. The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Kumbakonam Region,
Kumbakonam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the second respondent in Ref.No.TNSTC/KUM/DS-10025/FATOI/D10-1724/2022, dated 21.12.2022 and quash the same.



W.P.(MD).No.19778 of 2023

WEB COPY

For Petitioner : Mr.A.Rahul

For R1 and R2 : Mr.K.Jegadeesh Balan
Standing Counsel

ORDER

The present Writ Petition has been filed by a Driver of the respondent Transport Corporation, challenging the second show cause notice issued by the Management proposing to impose punishment, based upon the enquiry report.

2. The petitioner herein was issued with a Charge Memo for involving in a fatal accident on 04.09.2017, while driving a bus bearing Registration No.TN-68-N-0046 in Route No.A-59. A detailed enquiry was conducted and the enquiry report was submitted on 02.01.2018 exonerating the writ petitioner.

3. The Management has addressed a communication to the writ petitioner on 03.02.2018, to the effect that they have provisionally accepted the enquiry report and called for further explanation from the writ petitioner.



W.P.(MD).No.19778 of 2023

The petitioner has submitted his explanation on 27.02.2018 seeking to drop further proceedings. The Management passed final orders in the disciplinary proceedings on 12.03.2018, after accepting the enquiry report, issuing an order of censure. Suddenly, the Management has issued a second charge Memo on 25.11.2022 for the same incident. The petitioner has submitted an explanation. Without conducting any enquiry, a show cause notice was issued to the writ petitioner on 05.12.2022, proposing to impose punishment of postponement of one increment for a period of two years with cumulative effect. The petitioner has submitted his explanation on 05.12.2022. Under the impugned order dated 21.12.2022, the Management has imposed the punishment of postponement of one increment for a period of two years with cumulative effect. This order is under challenge in the present writ petition.

4. According to the learned counsel appearing for the writ petitioner, when the departmental proceedings were initiated as against him for the incident that took place on 04.09.2017 and he was imposed with a punishment of censure, a second charge memo ought not to have been issued and punishment cannot be issued. He further contended that F.I.R lodged against him in Crime No.298 of 2017 on the file of the Thiruvaiyaru Police



W.P.(MD).No.19778 of 2023

Station was closed as “Mistake of Fact” on 31.10.2017. In such circumstances, the order of punishment imposed by the respondent Transport Corporation is illegal and sought to set aside the said punishment.

5. Per contra, the learned Standing Counsel appearing for the respondents had contended that a claim petition has been filed by the legal heirs of the deceased person before the Motor Accident Claims Tribunal and therefore, the present charge memo has been issued as against the writ petitioner and hence sought for sustaining the order of punishment imposed upon the writ petitioner.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The narration of the dates and events would clearly indicate that the petitioner was imposed with a punishment of censure after accepting the enquiry report dated 02.01.2018, for the accident that has taken place on 04.09.2017. In such circumstances, a second charge memo cannot be issued to the writ petitioner for the same delinquency. In the present case, after



W.P.(MD).No.19778 of 2023

WEB COPY

issuance of the second charge memo, without conducting an enquiry, a second show cause notice has been issued proposing to impose punishment and thereafter, punishment has been imposed. This Court is of the considered opinion that the second charge memo as well as the punishment imposed under the impugned order are not legally sustainable and there are liable to be set aside.

8. In view of the above said deliberations, the order impugned in the writ petition is set aside. This Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

29.08.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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

2. The General Manager,
Tamil Nadu State Transport Corporation,

5/6



W.P.(MD).No.19778 of 2023

(Kumbakonam) Limited,
Kumbakonam Region, Kumbakonam.

R.VIJAYAKUMAR,J.

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W.P(MD)No.19778 of 2023

29.08.2024