



WP(MD)No.21154 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.21154 of 2019
and
WMP(MD)No.17788 of 2019

S.Gurunathan

.. Petitioner

v.

1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Madurai Region,
Bye-pass Road,
Madurai – 625 016.

2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Madurai Region,
Bye-pass Road,
Madurai – 625 016.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in O.N.D.U/D3/Usilai/2290 dated 24.07.2018 and the consequential



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impugned order passed by the second respondent in O.N.D.U/D7/Puku/CR/3351 dated 18.09.2018, quash the same and consequently, directing the respondents 1 & 2 to permit the petitioner to continue as Senior Conductor at Madurai Rural Branch and confer all monetary benefits to the petitioner, after regularizing the suspension period of one month from 06.10.2017 to 05.11.2017 within a stipulated time frame.

For Petitioner : Mr.S.Siva Thilakar

For Respondents : Mr.S.Raja,
Standing Counsel

ORDER

The petitioner is working as Senior Conductor in the Puthukulam Branch of the respondents Transport Corporation. He was issued with a charge memo on 16.10.2017 that he has issued expired tickets to the passengers on 03.10.2017 and caused monetary loss to the Corporation to the tune of Rs.480/-.



2.For this misconduct, the petitioner was placed under suspension from 06.10.2017. This suspension order was revoked on 05.11.2017 and the petitioner was sent for compulsory training at Pasumalai Training Centre from 06.11.2017 to 20.11.2017, in respect of the charges levelled against him. He was also transferred from Puthukulam Branch to Usilampatti Branch on 23.11.2017, without there being any domestic enquiry.

3.On 20.12.2017, another charge memo was issued against the petitioner for unauthorised absence. On 24.04.2018, a show cause notice was issued and the petitioner has submitted his objection. On 29.06.2018, the petitioner was again transferred from Usilampatti Branch to Madurai Branch. According to the petitioner, because of the frequent transfers, he could not join in the new station immediately and has availed eligible leave as per the Rules. While so, the second respondent has passed final orders on 24.07.2018 imposing a punishment of stoppage of annual increment for a period of three months without cumulative effect for the alleged unauthorized absence from 24.11.2017 to 24.06.2017.



4. Yet another order was passed by the second respondent on 18.09.2018 by imposing a punishment of stoppage of annual increment for a period of two years with cumulative effect and also treated the suspension period from 06.10.2017 to 04.11.2017 as unearned leave, for the charge of causing monetary loss of Rs.482/-. Aggrieved over the same, the petitioner has filed this writ petition.

5. In this writ petition, two orders are put under challenge.

i) One is the order dated 24.07.2018 imposing a punishment of stoppage of annual increment for a period of three months without cumulative effect for the alleged unauthorized absence.

ii) The other is the order dated 18.09.2018 imposing a punishment of stoppage of annual increment for a period of two years with cumulative effect and also treating the suspension period from 06.10.2017 to 04.11.2017 as unearned leave, for the charge of causing monetary loss of Rs.482/-.

6. The petitioner disputed the charge of causing monetary loss by issuing expired tickets. According to him, he has issued the tickets to the



passengers, which were printed and supplied by the Corporation itself.

That apart, the petitioner contended that for this charge of causing monetary loss, he was imposed with the following punishment, without there being any domestic enquiry:-

1. suspended from service on 06.10.2017;
2. sent for compulsory training from 06.11.2017 to 20.11.2017 at Pasumalai Training Centre;
3. transferred from Puthukulam Branch to Usilampatti Branch on 23.11.2017; and
4. transferred from Usilampatti Branch to Madurai Rural on 29.06.2018.

Now, with the passing of the order dated 18.09.2018 imposing a punishment of stoppage of annual increment for a period of two years with cumulative effect, the petitioner would be imposed with the punishment for the fifth time for this charge of causing monetary loss of Rs.482/-.

7. According to the petitioner, because of the frequent transfers, he could not join in the transferred station and availed his eligible leave. However, for the same, the petitioner was slapped with another order



dated 24.07.2018 imposing a punishment of stoppage of annual increment for a period of three months without cumulative effect for the alleged unauthorized absence. This order dated 24.07.2018 is in consequence of the earlier charge and therefore, according to the petitioner, he has slapped with punishment after punishment for a single charge. Hence, he prayed for appropriate orders.

8. Though the petitioner has raised several grounds on the violation of principles of natural justice, the respondents have not contested the case properly. Therefore, this Court was constrained to pass the following order on 15.11.2024:-

"When this writ petition was taken up for hearing on 11.11.2024, the matter was passed over twice as there was no representation for the respondent Corporation. Therefore, this Court, by order dated 11.11.2024, directed the first respondent/Managing Director to appear before this Court along with the files on 15.11.2024. However, the Managing Director is not present before this Court today.

2. The learned Standing Counsel for the respondent Corporation, who failed to appear before this Court on 11.11.2024, is present before this Court along with one Murugadoss, a Section Officer (In-charge of



Legal Section).

3. The learned counsel appearing for the petitioner made his submission that the petitioner was imposed with a punishment for having issued expired tickets to the passengers and during an Inspection, it was noted down by the Inspection Officer.

4. The learned Standing Counsel for the respondents is not having the case papers pertaining to this writ petition, however, he managed to make his submission based on the instructions which has been provided by the Section Officer of the respondent Corporation.

5. It appears that the Section Officer (In-charge of Legal Section), who is present before this Court along with the Standing Counsel, is also not having the required data with regard to this writ petition.

6. If this is how the respondent Corporation is contesting the case even without having any proper instructions and case papers, then, this Court may not pass any appropriate orders in the writ petition, which is listed before this Court.

7. Since the respondent Corporation is not contesting the case properly, this Court directs the first respondent/Managing Director to appear before this Court on 22.11.2024, along with an explanation as to how the case papers are being maintained in the Legal Section attached with the respondent Corporation and how such representations have been made without having any proper instructions and the case papers.

Post the matter on 22.11.2024 in the same position."



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9. Accordingly, the Managing Director appeared before this Court on 22.11.2024 and ensured that the case would be conducted properly. His personal appearance was also dispensed with by order dated 22.11.2024. However, even then, the Corporation has not shown any change. Not even a counter affidavit was filed in this writ petition till date, even after the appearance of the Managing Director.

10. According to the learned Counsel for the respondents Corporation, the issue in question is very simple and as such, there is no necessity for filing any counter affidavit. However, he is not in a position to answer the grounds raised by the petitioner.

11. It is very unfortunate that this is how a Corporation is defending their case before the Court of law. Because of this conduct of the Corporation, this Court is not in a position to dispose of the case which is pending before this Court since 2019. This Court is not inclined to keep this writ petition pending any further. The petitioner has made out a *prima facie*



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case that he has been punished several times for the same delinquency,
even if the delinquency is proved.

12.For the conduct of the respondents and in view of the *prima facie* case established by the petitioner, this writ petition stands allowed and the impugned orders dated 24.07.2018 and 18.09.2018 are set aside.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No **05.12.2024**
NCC : Yes / No
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B.PUGALENDHI, J.

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