



W.P(MD)Nos.23111 of 2022 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

**W.P(MD)Nos.23111, 23112, 23114, 23071, 23089, 27371 of 2022 &
5671 of 2023 & 3011 of 2024**

and

**W.M.P(MD)Nos.21472 of 2022, 3882, 5275, 5277 of 2023
& 2993 of 2024**

W.P(MD)No.23111 of 2022:

Kumar

... Petitioner

Vs.

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

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Karur Region,
Karur-639 003.

3.The Branch Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Karur Region, Musiri Branch,
Trichy-621 211.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the entire records in connection with the impugned order passed by the 2nd respondent in TNSTC / KRR / DS - 1310 ABSO19/D1-7932/2022, dated 16.17.2022, quash the same as illegal.

For Petitioner : Mr.D.Anbarasu

For Respondents : Mr.K.Jegadeesh Balan
Standing Counsel

ORDER

The petitioners are working as Drivers / Conductors in the respondent Corporation. While in service, they were visited by a charge memo for certain counts of charges framed as against them by the respondent Corporation. For which, the petitioners have duly submitted their reply. Not being satisfied with the explanation given by the petitioners, separate departmental enquiry was initiated as against each of the petitioners and each and every departmental enquiry was concluded as charges proved as against the respective petitioners. Thereafter, on various dates, the impugned order of punishment came to be imposed on the petitioners respectively. The punishment imposed on the petitioners is an order to reverse the basic pay for a period of one stage / two stages.



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2. The details of the petitioners' service and the respective dates of the impugned order on which the impugned punishment was passed are tabulated as follows.

S. No.	Writ Petition Number	Name of the writ petitioner	Name of the post in which the petitioner is serving	Date of Charge Memo	Date of Punishment	Punishment imposed
1.	W.P(MD)No. 27371 of 2022	R.Sivakumar	Driver	24.12.2019	08.03.2021	Reverse the basic pay in a preliminary stage
2.	W.P(MD)No. 3011 of 2024	R.Sethuramalin gam	Driver	24.12.2021	16.07.2022	Reverse the basic pay for a period of one stage
3.	W.P(MD)No. 5671 of 2023	T.Chezhian	Driver	22.12.2021	27.10.2022	Reverse the salary in a basic stage
4.	W.P(MD)No. 23089 of 2022	Sirumbannan	Driver	19.01.2022	12.09.2022	Reverse the basic pay for a period of one stage
5.	W.P(MD)No. 23071 of 2022	S.Jeyakumar	Driver	16.02.2022	22.07.2022	Reverse the basic pay for a period of one stage



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6.	W.P(MD)No. 23111 of 2022	Kumar	Conductor	09.02.2022	16.07.2022	Reverse the basic pay for a period of two stage
7.	W.P(MD)No. 23112 of 2022	S.Jeyakumar	Driver	03.03.2022	12.09.2022	Reverse the basic pay for a period of one stage
8.	W.P(MD)No. 23114 of 2022	Sathish Kumar	Driver	03.03.2022	16.07.2022	Reverse the basic pay for a period of one stage

Challenging the impugned order of punishment which was passed by the second respondent as against the various petitioners, these writ petitions came to be filed.

3. The learned counsel for the petitioner submitted that the present impugned orders to reverse the basic pay for a period of one stage / two stages are without jurisdiction and no such punishment has been specifically provided in the standing orders of the Transport Corporation. He further insisted that the punishment not prescribed under the statutory rules cannot be imposed. He further submitted that the second respondent has passed the impugned punishment as against the petitioners by violating the standing orders of the Transport



Corporation which needs interference of this Court and pressed for allowing the writ petition.

4. Per contra, the respondent has filed a counter and the learned standing counsel for the respondents submitted that the petitioners have conducted themselves in a manner which was inimical to the proper administration of the affairs of the respondent Corporation and they have violated the provisions of the standing orders of the Corporation, for which duly show cause notices were served on them and after obtaining proper explanation from them, without being satisfied by the same, have conducted a proper domestic enquiry by giving opportunity of hearing to each of the petitioners and thereafter, further receiving explanation from them not being satisfied by the explanation, the impugned order of punishments were imposed on each of the petitioners. The petitioners have been punished several times even before in various other disciplinary proceedings initiated as against them. Hence, only for the purpose of maintaining discipline in the public undertaking, such a punishment came to be imposed on the petitioners. If at all the petitioners have got any grievance as against the same, they are entitled to raise an industrial dispute before the competent Labour Court under



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section 2 (K) of the Industrial Disputes Act, 1947 and they are not entitled to file a writ petition challenging the impugned orders of punishment and pressed for dismissal of the writ petitions.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. The standing orders for the employees of the Transport Corporation as certified by the Appellate Authority under the Industrial Employment Standing Orders Act, 1946 which came into force on 30-11-1976 has been placed before me for my perusal. Clause 25 of the same details the punishment for the misconduct of the employees of the corporation and the same is extracted as follows:

“25) Punishment of Misconduct

1. The following shall be the prescribed punishment that may be awarded to workmnn, guilty of misconduct.

(i) Censure

(ii) Fine : Subject to the provisions of payment of wages Act.

(iii) Stoppages of increment: Stoppage of increment



with or without cumulative effect.

(iv) a. Recovery from wages whole or part of any pecuniary loss, caused to the corporation by the negligence or breach of orders of the workmen.

b. Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increment ordered to be withhold, where such an order cannot be given effect to.

c. Recovery from pay to the extent necessary of the monetary value equivalent to the amount of reduction to a lower stage in a time scale ordered where such an order cannot be given effect to.

v. Suspension not exceeding 30 days

vi. Demotion to lower post or lower grades. No workmen shall be demoted to any post or grades lower than to which he was initially recruited under the corporation.

vii. Compulsory retirement

viii. Removal from service or discharge.

ix. Dismissal from service

x. Any of the above in case of accidents, where driver is found to be guilty.”

7. Admittedly, the punishment imposed upon the petitioners by the respondent Corporation is not provided under the said standing orders



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for the corporation. The order passed by the Disciplinary Authority reversing the basic pay of the petitioners for a period of one stage / two stages as a punishment for the various delinquencies, is without jurisdiction and the same is not provided under the standing orders of the Corporation. The standing orders do not empower the Disciplinary Authority to impose any other major or minor punishment not provided under the standing orders. It is a settled proposition of law that punishment not prescribed under the rules as a result of disciplinary proceedings cannot be awarded. Imposing punishment for approved delinquency is regulated and controlled by the statutory rules. Therefore, while performing the quasi-judicial functions, the authority is not permitted to ignore the statutory rules under which punishment is to be imposed. The Disciplinary Authority is bound to give strict adherence to the standing orders of the Corporation. Thus, the order of punishment being outside the purview of the standing orders is nullity, perverse and cannot be enforced as against the petitioners.

8. The Honourable Apex Court in the case of ***Vijay Singh Vs. State of U.P & Others*** reported in ***2012 (5) SCC 242*** has dealt with a



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case pertaining to disciplinary proceedings and the relevant portion of which is extracted as follows:

“21. Undoubtedly, in a civilised society governed by the Rule of Law, the punishment not prescribed under the statutory rules cannot be imposed. Principle enshrined in criminal jurisprudence to this effect is prescribed in the legal maxim nulla poena sine lege which means that a person should not be made to suffer penalty except for a clear breach of existing law.”

9. In view of the same, the orders impugned in the writ petitions are hereby quashed as illegal. Accordingly, all the Writ Petitions stand allowed. Consequently, connected Miscellaneous Petitions are closed.

15.03.2024

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

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



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L.VICTORIA GOWRI, J.

gbg

2.The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Karur Region,
Karur-639 003.

3.The Branch Manager,
Tamil Nadu State Transport Corporation
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