



WP.(MD).No.24106 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.24106 of 2022

and

W.M.P.(MD)No.18206 of 2022

R.Subbaiyan

... Petitioner

Vs.

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

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

3.The Branch Manager,
The Tamil Nadu State Transport,
Corporation (Kumbakonam) Ltd.,
Karur Branch - II,
Karur.

4.Rajendran,
The Branch Manager,
The Tamil Nadu State Transport,
Corporation (Kumbakonam) Ltd.,
Karur Branch - II,
Karur.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order passed by the 2nd respondent in Ref. No.TNSTC/KRR/DS-1587-MIBO13/D1/8104/2022 dated 11.08.2022 in so far as imposing punishment of reduction of petitioner's basic pay by one stage besides treating the suspension period as eligible leave, quash the same as illegal and consequently direct the respondents to pay full wages to the petitioner for the days namely 25.04.2022 and 28.04.2022 and further directing the respondents to regularize the period of suspension from 14.05.2022 to 15.05.2022 as duty with pay and other attendant benefits.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.K.Jegadeesh Balan
Standing Counsel

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the 2nd respondent in Ref. No.TNSTC/KRR/DS-1587-MIBO13/D1/8104/2022 dated 11.08.2022 in so far as imposing punishment of reduction of petitioner's basic pay by one stage besides treating the suspension period as eligible leave and to direct the the respondents to pay full wages to the petitioner for the days namely 25.04.2022 and 28.04.2022 and further directing the respondents to regularize the period of suspension from



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14.05.2022 to 15.05.2022 as duty with pay and other attendant benefits.

2.The petitioner joined in the first respondent Corporation as Driver on 29.09.1992 and presently he is employed as Driver Level 5 at Karur II Branch at first respondent Corporation. The petitioner suffered acute back pain during the year 2022, as the result of which, he submitted an application to the third respondent in person on 28.04.2022 at 10 a.m., along with medical certificate seeking medical leave from 28.04.2022 to 07.05.2022. The third respondent received the application. On having submitted the leave application on 28.04.2022 to the third respondent, the petitioner did not turn up for duty believing that his medical leave sought for has been sanction. However, subsequently he came to know that the third respondent had made an absent mark in the attendance register on 28.04.2022. Hence, the petitioner rejoined duty on 02.05.2022. For the said absence, the petitioner was visited with charge memos dated 07.05.2022 and 09.06.2022. For both of which, the petitioner submitted detailed separate explanations. However, the same was not considered and an Enquiry Officer was appointed to look into the matter. The Enquiry Officer after giving



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opportunity to the petitioner vide his report dated 25.06.2022, concluded that the petitioner has discharged his service for more than 30 years without any blemish without causing any accident and maintained the speed limit and millage as mandated by the authorities and recommended that the respondent Administration should take these facts into account while dealing with the disciplinary proceedings as against the petitioner. However, without considering the same, the charges framed as against the petitioner was held proved and the punishment of reduction of one stage came to be passed as against the petitioner vide impugned order dated 11.08.2022. Challenging the same, this Writ Petition came to be filed.

3.The learned counsel for the petitioner Mr.A.Rahul submitted that the matter in hand is no more *res integra* and the punishment imposed by the respondent is unheard of and the same is nowhere contemplated in the Standing Orders, which govern the administration of the respondent Corporation and pressed for allowing the Writ Petition.

4.Per contra the respondents have filed a counter and the



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learned Standing Counsel for the respondents Mr.K.Jegadeesh Balan vehemently submitted that the petitioner has approached this Court without exhausting the alternate remedy, which is available to him before the Labour Court and on that basis, pressed for dismissal of the Writ Petition.

5.Heard Mr.A.Rahul, learned counsel appearing for the petitioner, Mr.K.Jegadeesh Balan, learned Standing Counsel appearing for the respondents and carefully perused the entire materials available on record.

6.The punishment to be inflicted under disciplinary proceedings has been provided by the Standing Orders under Industrial Employment (Standing Orders) Act 1946. As many as 10 punishments have been contemplated under the heading 'Punishment of Misconduct' from 1 to 9.

7.A close reading of those punishments would reveal that no where the punishment of reduction in pay by one stage has been contemplated. This Court has dealt with a similar case in W.P. (MD)No.20629 of 2022 date 11.10.2022 and the relevant portion of



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which is extracted as follows:-

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“5. The learned counsel appearing for the petitioner has enclosed the certified Standing Orders. Clause 25 sets out the punishments that can be given for misconduct committed by the employees. As many as nine different kinds of punishments have been catalogued in the said Clause; they vary from Censure to dismissal from service. The punishment of reduction in pay by two stages is not one of the punishments set out in the certified standing orders.

6. The learned counsel appearing for the petitioner places reliance on the decision of the Hon-ble Supreme Court in the case of Vijay Singh Vs. State of Uttar Pradesh & Others reported in (2012) 5 SCC 242 wherein it was held that what has not been prescribed under the statutory rules cannot be imposed. The same principle will very much apply to the case on hand also. The writ petitioner could not have been visited with a punishment that has not been prescribed or stipulated in the certified Standing Orders.”

8. Fully fortified by the order passed by this Court, I hereby observe that the respondents do not have the Authority to inflict any punishment, which is not contemplated under the Standing Orders governing the administration of the respondent



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Corporation. In view of the same, I quash the impugned order dated 11.08.2022 and further direct the respondents to regularize the period of the suspension of the petitioner from 14.05.2022 till 15.05.2022 with all pay and other benefits.

9.In view of the above, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

15.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

To

- 1.The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam.
- 2.The General Manager,
The Tamil Nadu State Transport,
Corporation (Kumbakonam) Ltd.,
Karur Region,
Karur.
- 3.The Branch Manager,
The Tamil Nadu State Transport,
Corporation (Kumbakonam) Ltd.,
Karur Branch - II,
Karur.
- 4.Rajendran,
The Branch Manager,
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