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W.P.No.275 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.275 of 2019

WMP.No. 293 of 2019

M.Radhakrishnan

.. Petitioner

vs

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem Division, Salem, Salem District.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Salem Division,
Salem – 636 007.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the 1st respondent in his Proceedings Ku.No.452-23605-T3-TNSTC-2018, dated 15.12.2018 whereby confirming the termination order passed by the 2nd respondent in his proceedings Pa.Mu.No.452-23605-T3-TNSTC-2012-13, dated 09.07.2013 and quash the same and consequently direct the respondents to reinstate the petitioner into service with all attendant benefits, continuity of service and all attendant monetary benefits to the petitioner.



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For Petitioner : Mr.C.Prakasam

For Respondents : Mr.M.Aswin
Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

2. The petitioner by the present writ petition has assailed the action of the first respondent in dismissing the appeal filed by the petitioner against the order dated 09.07.2013, whereby, the petitioner's service with the respondents were terminated.

3. The petitioner contends that, by the order dated 09.07.2013, the second respondent terminated his services on the ground that he had continuously abstained from work without prior sanction; that the petitioner's prior conduct also reflects his continuous unauthorized absence from duty; and that the said order of termination, was upheld by the first respondent by the impugned order dated 15.12.2018.

4. It is the further contention of the petitioner that the enquiry notice



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stated to have sent to him was not served and thus, the respondents, on the basis of *ex parte* enquiry could not have taken action of terminating his services.

5. Per contra, learned Standing Counsel appearing for the respondents submits that, on the respondents initiating disciplinary action, had issued notice of enquiry; that the petitioner refused to receive the notice and did not appear for enquiry; and thus, the enquiry officer decided to conduct the domestic enquiry as *ex-parte* enquiry and submitted report holding that the charges against the petitioner as proved.

6. Learned Standing Counsel further submits that even after the petitioner refused to receive the notice of enquiry sent to him, the authorities caused verification at his last communicated place of residence and found that the petitioner was living in the said house and infact had purchased a lorry and driving the same by himself.

7. Learned Standing Counsel appearing for the respondents further submits that when the petitioner refused to receive the notice of enquiry, the notice was displayed in the notice board of the respondent corporation



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with a copy being sent to Department as well as to the Union Office and thus, the petitioner cannot claim of notice not being served on him or the enquiry is held exparte.

8. On behalf of the respondents, it is further contended that since, the respondents followed the procedure as laid down in the standing orders, the petitioner cannot claim that the termination order is invalid or vitiated.

9. On behalf of the respondents, it is also further contended that the termination of service of the petitioner was approved by the Deputy Commissioner of Labour vide order dated 19.12.2014 in A.P.No.222 of 2013 and the petitioner did not take any steps to assail the said order, thus, the order of dismissal has become final.

10. On behalf of the respondents, it is contended that since, the order of dismissal had attained finality, the first respondent taking note of the same, has rejected the claim of the petitioner and as such, the petitioner cannot claim that the said order is illegal.



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11. I have taken note of the respective contentions urged.

12. At the outset, it is to be noted that on respondents initiating disciplinary action, had issued notice of enquiry and the petitioner had refused to receive the same. The notice of enquiry sent to the petitioner by registered post was returned with the postal endorsement "refused". The return of registered post with such endorsement amounts to deemed service, as held by the Hon'ble Apex Court in the case of ***C.C.Alavi Haji v. Palapetty Muhammed and another*** reported in (2007) 6 SCC 555, wherein, while dealing with the registered envelope returned with endorsement 'refused' the Hon'ble Supreme Court held as under :-

“14. Section 27 gives rise to a presumption that service of notice has been effected when it is sent to the correct address by registered post. In view of the said presumption, when stating that a notice has been sent by registered post to the address of the drawer, it is unnecessary to further aver in the complaint that in spite of the return of the notice unserved, it is deemed to have been served or that the addressee is deemed to have knowledge of the notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the



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ordinary course of business. This Court has already held that when a notice is sent by registered post and is returned with a postal endorsement “refused” or “not available in the house” or “house locked” or “shop closed” or “addressee not in station”, due service has to be presumed. (Vide Jagdish Singh v. Natthu Singh [(1992) 1 SCC 647 : AIR 1992 SC 1604] ; State of M.P. v. Hiralal [(1996) 7 SCC 523] and V. Raja Kumari v. P. Subbarama Naidu [(2004) 8 SCC 774 : 2005 SCC (Cri) 393] .) It is, therefore, manifest that in view of the presumption available under Section 27 of the Act, it is not necessary to aver in the complaint under Section 138 of the Act that service of notice was evaded by the accused or that the accused had a role to play in the return of the notice unserved.”

13. Since, the respondents having acted in accordance with the standing orders by sending notice to the petitioner at his last known address, the petitioner having refused to receive the said notice and the respondent thereafter having displayed the said notice in the notice board, this Court is of the view that the petitioner cannot be allowed to plead of notice not having been served on him. Further, on the enquiry officer submitting his report, and the respondent having sent a copy of the



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enquiry report to the petitioner, the petitioner cannot claim that the enquiry proceedings having been conducted as ex-parte enquiry and he having been denied opportunity.

14. Further, on the order of dismissal being confirmed by the Deputy Commissioner of Labour, the petitioner having not taken any steps to assail the said order by approaching appropriate forum, cannot be allowed to claim that the order by which his services were terminated is vitiated or is passed in violation of principles of natural justice.

15. Further, taking note of the fact that the petitioner had been charged with misconduct in addition to unauthorised absence on earlier occasion by causing damage to the property of the respondents, which a public property, this Court is of the view that no case is made out to interfere with the impugned order as passed by the respondents.

16. In view of the above, the present writ petition is devoid of merits and is accordingly dismissed. No costs. Consequently connected miscellaneous petition is closed.



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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

msv

To

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Tamil Nadu State Transport Corporation Ltd.,
Salem Division, Salem, Salem District.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Salem Division,
Salem – 636 007.



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T. VINOD KUMAR, J.

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