



W.P.No.1003 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2025

CORAM:

THE HONOURABLE MRS. JUSTICE N. MALA

Writ Petition No.1003 of 2022
and W.M.P.Nos.1071 and 1072

E. Kumar

... Petitioner

Vs.

1. The Metropolitan Transport Corporation,
Rep. by its Managing Director,
Pallavan Illam, Chennai - 600 002.

2. The Senior Deputy Manager (HR),
Metropolitan Transport Corporation,
Pallavan Illam, Chennai - 600 002.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 06.06.2020 passed by the second respondent in Seyalmurai Aanai No.30192/ Sa Pi (O.Na) 15/MTC/2019 and quash the same and consequently direct the respondents to provide the petitioner forthwith alternative employment/light duty with effect from 08.04.2019 by restoring his pay and with continuity of service, pay protection and other service benefits and back wages.



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W.P.No.1003 of 2022

For Petitioner : Mr.V. Ajoy Khose

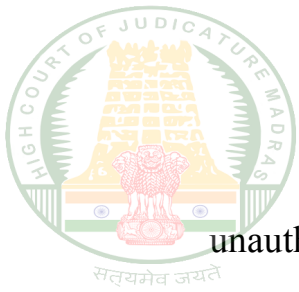
For Respondents : Mr.C. Gouthamaraj
Standing Counsel

ORDER

The petitioner has filed this Writ Petition to quash the impugned order dated 06.06.2020, imposing punishment of reduction of pay in the entry level and consequently, to direct the respondents to provide the petitioner alternative employment/light duty with effect from 08.04.2019, by restoring the petitioner's pay with continuity of service and all other service benefits and backwages.

2. Heard the learned counsels and perused the materials on record.

3. The learned counsel for the petitioner submitted that the punishment imposed by the respondents of reduction of pay to the entry level was illegal and without jurisdiction as it was against the Standing Orders of the respondents. The counsel submitted that as the petitioner applied for medical leave with effect from 08.03.2019, there was no



W.P.No.1003 of 2022

unauthorized absence and hence, the charge memo issued to the petitioner alleging absence without permission from 21.03.2019 was untenable, *mala fide* and illegal.

4. The learned counsel for the petitioner further submitted that the punishment imposed by the respondents was disproportionate to the alleged misconduct of unauthorized absence. The counsel further submitted that the petitioner had defective vision in his right eye and so he was unable to carryout the multiple duties attached to the job of the Conductor. The counsel therefore, sought for a direction to the respondents to refer the petitioner to the Medical Board for considering the petitioner's request for light duty.

5. In reply, the learned counsel for the respondents submitted that the punishment imposed on the petitioner was in terms of the Standing Orders applicable to the employees of the Corporation, particularly, Clause 5 of Section 26. The counsel further submitted that insofar as the request of the petitioner for light work is concerned, unless and until the petitioner was re-examined by the Medical Board and the opinion of the Medical Board was obtained, the petitioner could not be given light



W.P.No.1003 of 2022

work. The counsel hence, submitted that the Writ Petition lacked merits

and was liable to be rejected.

6. The main contention of the learned counsel for the petitioner pertains to the proportionality of punishment and denial of light work.

7. The petitioner was appointed as reserve conductor in the year 2007, and his services were regularized on time scale of pay with effect from 01.06.2010. The petitioner went on medical leave for treatment of his defective vision in the right eye. The petitioner also requested the respondents to give him light duty because of his defective vision. While so, the petitioner was issued with the charge memo on 04.05.2019, for the misconduct of unauthorized absence from 21.03.2019, for eight days. The petitioner submitted his explanation to the charge memo, on 18.05.2019. Thereafter, the enquiry was conducted and the petitioner participated in the enquiry proceedings. The Enquiry Officer, in his report dated 19.09.2019, found that the charges levelled against the petitioner were proved. Notice was sent to the petitioner on 25.09.2019, calling for his explanation to the enquiry report. Thereafter, the second show cause notice was issued to the petitioner on 08.10.2019, calling for



W.P.No.1003 of 2022

his explanation to the proposed punishment. The petitioner submitted his explanation on 12.12.2019, and thereafter the impugned order dated 06.06.2020, was passed imposing the punishment of reduction of pay at the entry level.

8. The misconduct imputed against the petitioner was unauthorized absence from 21.03.2019, for 8 days. Though the petitioner submitted that he had applied for medical leave from 08.03.2019, from the Enquiry Officer's proceedings and report, it is seen that no document was filed by the petitioner in the enquiry proceedings. In the absence of an application for leave, the finding of the Enquiry Officer that the petitioner's absence was unauthorized and the charges levelled against the petitioner were proved cannot be faulted. From the materials on record, it is seen that initially, the punishment proposed was that of removal from service, but, thereafter, based on the petitioner's explanation to the proposed punishment, the punishment was modified to one of reduction of pay to the entry level. According to the petitioner, even the said punishment was disproportionate to the alleged misconduct.



W.P.No.1003 of 2022

WEB COPY

9. In the Standing Orders of the respondent Corporation, various punishments that could be imposed for the misconduct of unauthorized absence are stated. One of the punishments provided is reduction of pay at entry level. Therefore, the respondents, invoking Clause 5 of Section 26 of the Standing Orders, imposed the punishment of reduction of pay at the entry level. The learned counsel for the petitioner submitted that the said punishment was very harsh. The learned counsel submitted that considering that the petitioner was suffering from defective vision in the right eye, the respondents could have imposed a lesser punishment.

10. It is undisputed that the petitioner was suffering from defective vision in his right eye. The respondents themselves referred the petitioner to the Medical Board on 25.07.2019. The Medical Board, in its report dated 23.08.2019, certified that the petitioner had defective vision in one of his eyes. Despite the Medical Board's report and provision of various punishments for unauthorized absence in the Standing Orders, the respondents imposed the severe punishment of reduction of pay at entry level, which as rightly submitted by the petitioner's counsel is disproportionate to the misconduct of unauthorized absence of eight days.



W.P.No.1003 of 2022

WEB COPY

11. Under the facts and circumstances of the case, I am of the view that the punishment imposed viz., reduction of pay at the entry level is very harsh and disproportionate to the misconduct of unauthorized absence and therefore, the impugned punishment order is set aside. The punishment is therefore modified in terms of the Standing Orders from one of reduction of pay at entry level to that of ***"stoppage of one increment without cumulative effect"***.

12. It is seen from the materials placed before me that the petitioner is genuinely affected by defective vision and the Medical Board, on the request of the respondents themselves, certified that the petitioner can do the job of a Conductor with one eye, if he was willing. Under the circumstances, I am of the view that the respondents should be directed to refer the petitioner to the Medical Board once again, and after obtaining a report of the Medical Board, the respondents should take a decision on providing the petitioner light work permanently. Hence, the following directions are issued:-



W.P.No.1003 of 2022

WEB COPY

(1) The respondents are directed to refer the petitioner to the Medical Board within a period of two (2) weeks from the date of receipt of a copy of this order, and

(2) Within a period of four (4) weeks from the date of receipt of the report from the Medical Board, the respondents shall consider and pass orders on providing light work to the petitioner permanently.

13. With the above observations and directions, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

20.03.2025

ASI

Index : Yes / No

Neutral Citation : Yes / No



W.P.No.1003 of 2022

WEB COPY To

1. The Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam, Chennai - 600 002.
2. The Senior Deputy Manager (HR),
Metropolitan Transport Corporation,
Pallavan Illam, Chennai - 600 002.



WEB COPY



W.P.No.1003 of 2022

N. MALA, J.

ASI

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