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W.P.No.21086 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.21086 of 2010

P.Karthikeyan

...Petitioner

Vs.

1.Tamilnadu State Transport
Corporation (Coimbatore) Ltd.,
Rep.by its Chairman-cum-Secretary
Transport Department
Representing the Board of Directors
37, Mettupalayam Road
Coimbatore 43.

2.The Managing Director
Tamilnadu State Transport
Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road
Coimbatore 43.

...Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 24.07.2007 passed by the 2nd respondent in Reference No.3/Thu.Mae (L&C)/Tha.Na.Aa.Poo.Ka (Kovai)/06, quash the same and consequently direct the respondents to reinstate the petitioner with continuity of service, backwages and all other attendant benefits, including promotion to the



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post of Senior Deputy Manager, from the date on which his juniors and colleagues were promoted with all consequential benefits, award costs.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.Sundaravadanam for R1 & R2
Standing Counsel

ORDER

The challenge in this writ petition is to the order dated 24.07.2007 passed by the second respondent, bearing Reference No.3/Thu.Mae (L&C)/Tha.Na.Aa.Poo.Ka (Kovai)/06, by which the petitioner was dismissed from service.

2. While the petitioner was working as Deputy Manager, a charge memo was issued alleging that he had remained unauthorisedly absent from 21.02.2005 without availing leave, thereby causing disruption to the day-to-day functioning of the Accounts Section of the Corporation Office. The petitioner submitted a reply to the first show cause notice denying the charges, which was found unsatisfactory necessitating initiation of a departmental enquiry.

3. The Enquiry Officer, after conducting the enquiry, submitted a report holding that the charge against the petitioner stood proved. Thereafter, a second



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show cause notice was issued to the petitioner, to which he replied stating that

he had been granted medical leave up to 21.02.2005 and that his subsequent absence was due to ill health. Upon consideration of the enquiry report and the further explanation submitted by the petitioner, the second respondent passed the impugned order dismissing the petitioner from service.

4. Assailing the impugned order, Mr.V.Ajoy Khose, learned counsel for the petitioner, submitted that the petitioner had put in nearly 20 years of service in the Corporation and that the absence was neither wilful nor deliberate, but was solely on account of ill health. In such circumstances, the second respondent ought to have taken a lenient view and imposed a lesser punishment.

5. Per contra, Mr.Sundaravadanam, learned Standing Counsel for the respondents, submitted that the petitioner had remained unauthorisedly absent for a period exceeding 13 months, which amounts to gross misconduct and caused serious hardship to the Corporation. In view of the gravity of the misconduct, the punishment of dismissal is proportionate and does not warrant interference by this Court. He further submitted that, during the pendency of the enquiry, the petitioner was permitted to resume duties, but after serving only for seven days, he again absented himself unauthorisedly.



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6. The submissions of the learned counsel for the parties and the materials placed on record have been carefully considered.

7. Initially, the charge pertained to unauthorised absence from 21.02.2005 to 18.08.2006. During the pendency of the enquiry, the petitioner was permitted to resume duties and he worked only for seven days, after which he again absented himself unauthorisedly and thereafter submitted an application seeking voluntary retirement. The said application came to be rejected. Although the petitioner claimed that his prolonged absence was due to ill health, no cogent medical evidence was produced to substantiate such claim. The prolonged unauthorised absence for more than 13 months, in the absence of supporting medical records, clearly establishes that the absence was wilful and deliberate. In these circumstances, the Enquiry Officer rightly concluded that the charge against the petitioner stood proved.

8. It is, however, not in dispute that the petitioner had put in nearly more than 20 years of service and ultimately attained the age of superannuation on 30.07.2017. There is no record of any prior misconduct, including unauthorised absence, and the petitioner's name was also stated to have been included in the panel for promotion to the next higher post. Considering the length of service rendered by the petitioner and the absence of any adverse past record, this Court



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is of the view that the punishment of dismissal from service is disproportionate to the gravity of the misconduct proved.

9. Ordinarily, this Court would have remanded the matter to the second respondent for reconsideration and imposition of an appropriate punishment proportionate to the misconduct. However, having regard to the fact that the petitioner has already attained the age of superannuation, remanding the matter would cause undue hardship and injustice to the petitioner. The petitioner's dismissal from service has resulted in denial of all terminal and consequential benefits, including pension, causing severe financial hardship to him and his family. Pension and retiral benefits are a deferred right earned through long service and not a bounty. In cases where the misconduct does not involve moral turpitude or grave financial loss, denial of such benefits amounts to a punishment disproportionate to the charge proved. The resultant forfeiture of retiral benefits operates as a double punishment, is arbitrary, and offends the principles of proportionality, fairness, and Article 14 of the Constitution. Therefore, the continued denial of terminal benefits is legally unsustainable and calls for interference.



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10. In view of the foregoing discussion, this Court is of the considered opinion that the order of dismissal is disproportionate to the gravity of the misconduct and that the ends of justice would be met by substituting the punishment of dismissal with that of compulsory retirement.

11. Accordingly, this writ petition is partly allowed. The impugned order passed by the second respondent bearing Reference No.3/Thu.Mae (L&C)/Tha.Na.Aa.Poo.Ka (Kovai)/06 is modified, and the punishment of dismissal from service is substituted with an order of compulsory retirement. The petitioner shall be entitled to all consequential terminal benefits, including pension and other pensionary benefits, if any. The respondents are directed to settle all such terminal and pensionary benefits within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

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Index : Yes/No
Speaking order : Yes/No
dna



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HEMANT CHANDANGOUDAR.J.,

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