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W.P.No.17326 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:13.06.2023

Delivered on: .23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.17326 of 2016

&

W.M.P.No.14802 of 2016

A.Ayyanar

... Petitioner

Vs.

The General Manager
Tamilnadu State Transport
Corporation (Villupuram) Limited
Villupuram

... Respondent

PRAYER: Writ 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 order passed in Ka.Ku.No.368/01/TNSTC/Kama/2015 dated 10.12.2015 and quash the same as illegal, arbitrary and capricious and also to direct the respondent to reinstate the petitioner with continuance of service and backwages with attendant benefit and provide employment as per the provisions of law.



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For Petitioner : Mr.S.Elambharathi

For Respondent : Mr.M.Aswin,
Standing Counsel

ORDER

The petitioner has approached this Court seeking issuance of a Writ of Certiorarified Mandamus to quash the impugned order in KA.Ku.No.368/01/TNSTC/Kama/2015 dated 10.12.2015 as illegal, arbitrary and to consequently direct the respondent to reinstate the petitioner with continuance of service and backwages together with attendant benefits as per law.

2. The case of the petitioner is that he joined the services of the 1st respondent Corporation as conductor in 2007 and ever since he has been working there. On 05.09.2015, the 2nd respondent issued a show cause notice calling for an explanation for a charge said to have been committed by the petitioner on 23.08.2015. Though the petitioner gave a detailed explanation, the Enquiry Officer by findings dated 12.10.2015, found the petitioner guilty of the charges. Thereafter, the respondent Corporation issued another show



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cause notice calling upon the petitioner as to why he should not be removed from services. Petitioner submitted his reply on 27.10.2015, stating that he did not commit any of the offence alleged against him and that during the year 2013 and 2014 he had met with an accident and he was under treatment for a certain period. However, the respondent in and by impugned order terminated the services of the petitioner taking into account the earlier charges for which the petitioner was already punished. The Writ Petition is filed challenging the impugned order on several grounds set out by the Writ Petitioner in the affidavit in support of the writ Petition especially for taking into account the earlier charges without even affording to the petitioner to present his case.

3. The respondent Corporation has filed a counter stating that the Enquiry Officer has not violated any law and the petitioner was afforded a fair opportunity. The respondent was justified in looking into the past history of the petitioner and therefore the impugned order was not liable to be interfered with.

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4. Heard Mr. S.Elambarathi, learned counsel appearing for the petitioner and Mr.M.Aswin, learned Standing counsel for the respondent.

5. The charges that are framed against the petitioner for the latest incident are that the petitioner did not issue ticket to a lady passenger after receiving Rs.5/- being the ticket amount; he had Rs.7/- excess in his money bag; he acted in a manner causing loss to the Corporation and that he failed to act as a responsible employee of the Corporation. Explanation offered by the Writ Petitioner was that he had issued tickets to all passengers on the alleged date and that the lady passenger who boarded the bus and purchased the ticket from him for Rs.5/- had lost her ticket and to escape the fine that would be imposed by the checking inspectors, she conveniently shifted the blame on the petitioner as if the petitioner never issued a ticket. None of the other passengers had a complaint of this nature excepting one lady passenger. The show cause notice dated 13.10.2015 refers to several incidents that occurred between 11.07.2008 and 24.02.2015. It is admitted even by the respondent that in respect of the said offences, action was taken and issue was closed



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then and there. None of the offences set out in the show cause notice appear to be of any serious or grave nature. The explanation offered by the petitioner is also very much plausible and acceptable. The respondent ought not to have fallen back on earlier concluded proceedings, that too in respect of a specific charge regarding non issuance of ticket and having an excess of Rs.7/- in his money bag.

6. This Court would like to straight away note that if the version of the petitioner that he had infact issued a ticket after receiving the sum of Rs.5/- from the lady passenger is accepted then the excess money available with him would be only Rs.2/-. By no stretch of imagination, the same can be termed as an act causing loss to the respondent corporation. It is really surprising that in respect of such a charge, the respondent has removed the petitioner from service by imposing maximum penalty. It is needless to state that in such cases of charges of be it Rs.7/- or Rs.2/- no malafide or malice can be imputed and the same could have even been the result of inadvertent or unintentional act of the petitioner, which does not warrant penalty in the



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nature of terminating the petitioner from service. The punishment meted out is grossly disproportionate to the offence and it shakes the conscience of the Court. Moreover, this Court does not appreciate this procedure adopted by the respondent Corporation by referring to earlier concluded proceedings for holding the latest charge against the petitioner. For all these reasons, the Writ Petitioner is entitled to relief from this Court.

7. Accordingly, Writ Petition is allowed and the order in Ka.Ku.No.368/01/TNSTC/Kama/2015 dated 10.12.2015 is quashed and the respondents are directed to reinstate the petitioner with continuance of service and backwages together with all attendant benefits within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

23.06.2023.

Internet:Yes

Index:Yes/No

Neutral Citation:Yes/No

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To

The General Manager
Tamilnadu State Transport
Corporation (Villupuram) Limited
Villupuram

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P.B.BALAJI, J.,
kpr

Pre-delivery order in
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