
(2013) 09 MAD CK 0030
In the Madras High Court
Case No : Writ Petition No. 12199 of 2012

M. Abdul Rehman

APPELLANT

Vs

The Managing Director and The Joint Managing Director

RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0030

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : J. Muthukumaran, for the Appellant; P. Kannan Kumar for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—The petitioner has stated that he had joined in service, as a Conductor, in the year, 1996. From the time he had joined in service, he has been carrying on his duties, efficiently, without any blemish. While so, when the petitioner was serving in Poonamallee Depot of the Metro Transport Corporation (Chennai) Ltd., he was placed under suspension, by an order of the General Manager, (Administration) of the Corporation, dated 22.9.2008. A charge memo., dated 22.9.2008, had been served on the petitioner, with three charges. The said charges read as follows:

1. While Thiru Abdul Rehman was on duty on 4.9.2008 in Route No. M253F (Aminjikai to Vellavedu and Vellavedu to Aminjikai) he had operated the trips from Aminjikai to Poonamallee and from Poonamallee to Aminjikai, in his own accord, and thereby caused loss of revenue to the Corporation Violation of Standing Order 25(XIV).

2. He had sold tickets at Stage 9 on the same day, he had recorded in the Trip Sheet Invoice as if the tickets were sold at Stages 12, 11 and 10

and thus committed falsification of records (Violation of S.O. 25(XXIX)(c).

3. He had resold two tickets bearing Nos. YS. 58-293536 and YS. 54-979441 which are not connected with this route and which were

previously sold. (Violation of S.O. 25(Xii)(c).

The petitioner has further stated that the charges had been framed against him on the basis of a complaint, dated 4.9.2008, made by the checking

staff, who had conducted a check, at Arumbakkam bus stop, on 4.9.2008. The petitioner had been asked to submit an explanation to the charges

levelled against him. Thereafter, by the proceedings, dated 14.10.2008, the suspension order passed against the petitioner had been revoked,

without prejudice to the pending disciplinary proceedings.

2. The petitioner had further stated that he had submitted an explanation, dated 3.12.2008, refuting the charges levelled against him. He had stated

that there was no basis for the framing of the charges and that the complaint made against him is a false complaint. As the explanation submitted by

the petitioner was not satisfactory, a domestic enquiry had been ordered by the proceedings, dated 13.3.2009. After holding the enquiry on a

number of days, the enquiry officer had submitted his report holding that all the charges levelled against the petitioner had been proved. Thereafter,

the second respondent had issued a memo., dated 11.11.2009, informing the petitioner that he had imposed the penalty of "dismissal from service"

on the petitioner. As the charges levelled against him had been proved, the petitioner had been asked to show cause as to why the said punishment

should not be imposed on him. The petitioner had submitted his reply, dated 1.12.2009, stating that the findings of the enquiry officer are not based

on evidence and therefore, the charges cannot be held to be proved. As such, the proposed punishment, sought to be imposed on the petitioner,

cannot be justified. However, the second respondent had passed the order, dated 23.12.2009, imposing the punishment of "reduction of pay to

the minimum level of conductor category for three years".

3. It had also been ordered that the suspension period would be treated as leave at his credit. While passing the said order, the second respondent

had taken into consideration the previous punishment imposed on the petitioner.

4. The petitioner had further stated that, while passing the order imposing the punishment on the petitioner, the second respondent had not specified the date from which the punishment would take effect and he had not stated as to whether the period of reduction would operate, so as to postpone future increments. He had also not stated as to whether the reduction ordered would be exclusive of any period spent on leave before the expiry of the punishment period. Therefore, the petitioner had preferred an appeal before the first respondent. The first respondent had passed a non speaking order, dated 6.9.2011, rejecting the appeal filed by the petitioner. The second appeal filed by the petitioner, dated 19.9.2011, had also been rejected. Thereafter, the petitioner has preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

5. The petitioner had filed the present writ petition stating that the second respondent had failed to consider the explanation submitted by the petitioner, in respect of the charges levelled against him, in its proper perspective. Even though a proper explanation had been submitted by the petitioner, with regard to the first and the second charges, regarding the issuing of tickets to the passengers, from Aminjikai to Vellavedu, the said explanation had been rejected, arbitrarily. The respondents had also failed to consider the admission of the management witness that nine tickets had been issued to the passengers, from Vellavedu to Poonamallee. Further, the enquiry officer had omitted to peruse the materials submitted by the petitioner in support of his contentions, at the time of the enquiry.

6. With regard to the third charge, there was no evidence that two used tickets had been reissued to the passengers. It had also been admitted by the management witness, during his cross examination, that no statement had been obtained from the two passengers, who had been, allegedly, in possession of the said tickets.

7. It had also been stated that the enquiry officer had not analysed the evidence that was available before him, properly, and therefore, his findings are perverse in nature. Further, the appellate authorities had not considered the contentions raised on behalf of the petitioner before passing their impugned orders.

8. Per contra, it had been submitted on behalf of the respondents that all the

three charges levelled against the petitioner had been proved during the enquiry. Since the explanation submitted by the petitioner, in respect of the charges levelled against him, was not satisfactory, an enquiry had been ordered and a further show cause notice had been issued to the petitioner, with regard to the punishment proposed to be imposed on him.

9. It had also been submitted on behalf of the respondents that the enquiry had been conducted, by the enquiry officer, in a fair and proper manner, by following the principles of natural justice. Based on the evidence available on record, the enquiry officer had come to the conclusion that the charges levelled against the petitioner had been proved. All the necessary procedures had been followed, by the enquiry officer, before he had arrived at his findings. In view of the statements made by the petitioner and on considering the gravity of the charges levelled against the petitioner, it had been proposed to impose the punishment of removal from service on the petitioner. However, it had been decided to impose the punishment of "reduction of pay to the minimum level of conductor category, for a period of three years" and the suspension period was treated as leave at his credit. Further, in such circumstances, the appeals filed by the petitioner had also been rejected. Thus, it could be seen that there was nothing arbitrary or illegal in the proceedings issued by the respondents imposing the said punishment on the petitioner. Therefore, the present writ petition, filed by the petitioner, is devoid of merits.

10. In view of the averments made on behalf of the parties concerned and on a perusal of the records available, this Court is of the considered view that the petitioner has not shown sufficient cause or reason to interfere with the impugned orders passed by the respondents.

11. It is noted that a proper enquiry had been conducted, by the enquiry officer, following the principles of natural justice. Further, the petitioner had not been in a position to show that the punishment imposed on the petitioner is arbitrary or disproportionate in nature. It is noted that the charges levelled against the petitioner are serious in nature. It is also noted that, even though the charges levelled against the petitioner are serious in nature, the respondents had decided to impose a lesser punishment on the petitioner, instead of imposing the punishment of dismissal from service on the petitioner. In such circumstances, the contentions raised on behalf of the

petitioner cannot be countenanced. As such, the writ petition filed by the petitioner is devoid of merits. Hence, the writ petition is dismissed. No costs.