

(2011) 06 MAD CK 0432

In the Madras High Court

Case No : Writ Petition (MD) No. 208 of 2006 and W.P.M.P. No. 209 of 2006

P. Kumaravel

APPELLANT

Vs

The Branch Manager, The General Manager, State Express
Transport Corporation and The Managing Director, State
Express Transport Corporation

RESPONDENT

Date of Decision : 23-06-2011

Acts Referred:

Citation : (2011) 06 MAD CK 0432

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : Balameenakshi, for R. Joseph Thankaraj, for the Appellant; K. Mahendran, for R-3, for the Respondent

Final Decision : Allowed

Judgement

D. Hariparanthaman, J.—The Petitioner was employed as a Conductor in the Respondent Transport Corporation from 14.08.1977. He Has rendered 28 years of service. On 10.09.2004, while he was working in Routet No. 123 VC running between Chennai and Trichy, checking took place at Melmaruvathur. Checking officials gave a report that there was ticket irregularities committed by the Petitioner. Based on the report, a charge memo dated 16.10.2004, was issued alleging that the Petitioner committed misconduct under Clause 16(a), 16(c) and 16(k) of the Model Standing orders. The Petitioner did not give explanation.

2. Thereafter, the second show cause notice, dated 10.12.2004, was issued stating that he did not submit his explanation. It was presumed that the charges were proved and that it was decided to impose the punishment of increment cut for one year without cumulative effect. He did not submit his explanation for the second show cause notice also. Thereafter, the impugned order dated 07.01.2005 was passed imposing punishment of increment cut for one year without cumulative effect. This writ petition is filed against the aforesaid order dated 07.01.2005.

3. The Respondents have not filed any counter affidavit. Heard the submission made by the learned Counsel for the Respondents based on instructions.

4. The impugned order was passed without enquiry. The second Respondent came to the conclusion that since the Petitioner did not submit his explanation, the charge was proved. This is not permissible. The second Respondent could not come to the conclusion that the charges were proved on the mere ground that no explanation was furnished. The Respondents ought to have conducted an enquiry. Rule 17 (4) (bb) and (c) of the Model Standing orders makes it clear that before imposing the penalty of increment cut, an enquiry should be held. Rule 17 (4) (bb) and (c) of the Model Standing Orders is extracted hereunder:

(bb) A copy of the enquiry proceedings shall be given to the workman concerned at the conclusion of the enquiry on request by the workman.

(c) If on the conclusion of the inquiry or, as the case may be, of the criminal proceedings, the workman has been found guilty of the charges framed against him and it is considered, after giving the workman concerned a reasonable opportunity of making representation on the penalty proposed that an order of dismissal or suspension or fine or stoppage of annual increment or reduction in rank would meet the ends of justice, the employer shall pass an order accordingly:

5. Further, the second Respondent, ought to have conducted an enquiry before imposing any punishment, as the punishment has resulted in serious civil consequences. As the impugned order was passed in violation of principles of natural justice, I am inclined to interfere with the same.

6. Accordingly, the impugned order is quashed, the writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.