

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE V. DHANAPALAN
AND
THE HONOURABLE MR. JUSTICE G. CHOCKALINGAM

Writ Appeal Nos.517 to 519 of 2011
and
M.P. Nos.1, 1 and 1 of 2011

A. Selvam ...Appellant in W.A.Nos.517 & 518 of 2011

R. Soundirarasu ...Appellant in W.A.No.519/11

vs.

1. State of Tamil Nadu
rep. by its Secretary to Government
Home Transport II Department
Fort St. George
Chennai 600 009.
2. The Principal Secretary
Transport Commissioner & Road Safety Commissioner
Chepauk, Chennai - 5. ...Respondents in all the appeals

PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, against the Common Order dated 04.03.2011 passed by the learned single Judge in Writ Petition Nos. 28848 of 2007 and 14473 and 8003 of 2009 respectively on the file of this Court.

Prayer in W.P.No.14473/2009: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to include the name of the petitioner in Serial No.1 in the promotion panel for the post of Regional Transport Officer for the year 2009 - 2010 and promote him to the said post.

Prayer in W.P.No.8003/2009: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to promote the petitioner according to the seniority to the post of Regional Transport Officer 2008 - 2009 without reference to Rule 17(b) charges issued against the petitioner.

Prayer in W.P.No.28848/2007: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records, relating to the proceedings made in Memo No.V3/590/2004 dated 05.01.2004 and 10.02.2004, passed by the second respondent and consequential order made in Letter No.93835/Tr.II/2006-11 dated 17.05.2007, passed by the first respondent and quash the same and forbear the respondents from proceeding with the enquiry pursuant to the aforesaid charge memos.

For Appellants : Mr. MA. Gouthaman
For Respondents : Mr. P.H. Arvind Pandian
Additional Advocate General
assisted by Mr.R.Rajeswaran
Spl. Govt. Pleader.

COMMON JUDGMENT
(Delivered by V. DHANAPALAN, J.)

Heard Mr.MA.Gouthaman, learned counsel appearing for the appellants and Mr.P.H.Arvind Pandian, learned Additional Advocate General, assisted by Mr.R.Rajeswaran, learned Special Government Pleader for the respondents.

2. All these writ appeals arise out of a common order passed in Writ Petition Nos.28848 of 2007, 14473 and 8003 and 11855 of 2009, dated, 04.03.2011, wherein the learned single Judge, while dismissing the writ petitions on the ground that there is no merit in these petitions, directed the respondents to conclude enquiry within a period of one year from the date of receipt of the order, as charges against the appellants are pending, and also directed the appellants to co-operate in concluding the enquiry. Learned Judge also held that in case, the appellants do not co-operate with the enquiry, it will be open to the Enquiry Officer to proceed ex-parte against the appellants and further, if enquiry is not concluded within the

stipulated period, it would be deemed to have been dropped.

3. It is the case of the appellants that the charge memo is legally and factually unsustainable in law, as the same did not contain the material particulars and satisfy the ingredients contemplated under Section 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. Moreover, the interpretation of Rule 39(d) of the Tamil Nadu State Subordinate Service Rules, has not been properly appreciated by the learned single Judge.

4. This Court, while admitting the writ appeals on 23.03.2011, granted interim direction in favour of the appellants to continue the post of Regional Transport Officer pending disposal of the appeals. The learned Additional Advocate General submitted before this Court that the appellants are continuing the same position as Regional Transport Officers and they have not been demoted. However, as there is no legal impediment to conclude the enquiry, the respondents had proceeded further and reached finality in the enquiry proceedings and the same is pending decision by the competent authority.

5. Noticing the said submission made by the Additional Advocate General, the learned counsel for the appellants would submit that as per direction of this Court, the appellants participated in the enquiry proceedings and the respondents have also reached a finality in the enquiry proceedings, but because of the pendency of the present appeals and the interim order directing the appellants to continue the promotional post of Regional Transport Officers, the enquiry proceedings are kept pending with the competent authority for appropriate decision, as it would have an impact on the appellants concerned.

6. In the light of the above stated position and the submissions made by the learned counsel for the parties, it could be seen that the challenge was made to the charge memos and ultimately, the learned single Judge dismissed the writ petitions filed by the appellants, however, with a direction to the respondents to conclude the enquiry proceedings within a time frame and also to the appellants to co-operate in conclusion of the enquiry. It is also made clear that if the appellants did not co-operate and there is no conclusion of the enquiry within the stipulated period, it would have been deemed dropped. Both the parties have acted in accordance with the directions of this Court and the enquiry proceedings are kept pending for appropriate decision by the competent authority. At this stage, the learned counsel for the parties suggested that the respondents may be directed to take a decision on the enquiry

proceedings, leaving the parties to work out their remedy in the manner known to law.

7. Accordingly, we dispose all these writ appeals, directing the respondents/competent authority to take a decision on the enquiry, which has already been concluded and communicate the same to the appellants. If any party is aggrieved by the decision, it is always open to them to have a recourse in accordance with law. Till such decision is taken by the respondents/authority concerned, the position as on today shall be maintained by the parties concerned. No costs. Consequently, M.P. Nos.1, 1 and 1 of 2011 are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ATR

To

1. The Secretary to Government
State of Tamil Nadu
Home Transport II Department
Fort St. George
Chennai 600 009.
2. The Principal Secretary
Transport Commissioner &
Road Safety Commissioner
Chepauk, Chennai - 5.

2 CCs to Mr. MA. Gouthaman, Advocate SR.No. 8125 & 8124

1 CC to the Government Pleader, SR.No. 8799

W.A. Nos. 517 to 519 of 2011

JP (CO)

PSI (19.03.2015)