

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.42166 of 2006

M.P.Veeramuthu

... Petitioner

Vs.

1.Tamil Nadu State Transport Corporation,
(Coimbatore Division - I) Limited,
Rep. By its Managing Director,
No.37, Mettupalayam Road,
Coimbatore - 641 043.

2.Tamil Nadu State Transport Corporation,
(Coimbatore Division - I) Limited,
Rep. By its General Manager,
No.37, Mettupalayam Road,
Coimbatore - 641 043.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records on the file of the second respondent bearing Ref.No.1/L2/Nee.Pe.No.35438/05/Ta.Na.A.Po.Ka/05, dated 13.12.2005 and quash the same and consequently, direct the respondents to reinstate the petitioner with all back wages, monetary benefits and arrears of salary.

For Petitioner

:Mr.Bharatha Chakravarthi

for M/s.Sai, Bharath and Ilan

For Respondents

:Mr.M.Ravi Bharathi

ORDER

The petitioner has filed the present writ petition challenging the impugned order passed by the second respondent / the General Manager, Tamil Nadu State Transport Corporation (Coimbatore Division - I) Limited, Coimbatore, in his proceedings dated 13.12.2005, in and by which, the request of the petitioner to review the punishment of dismissal from service was rejected.

2. Learned counsel appearing for the petitioner submitted that while the petitioner was working as a Driver with the respondent Corporation, he was involved with two accidents, one on 21.12.1994 and another on 21.12.1999 and in those accidents, nearly five persons died. Thereafter, a criminal case initiated against him in C.C.No.98/95 came up for trial before the District Munsif-cum-Judicial Magistrate, Avinasi, and finally the petitioner was acquitted from all the charges, by holding that the charges levelled against him were not proved and it is further held that the First Information Report itself was not correct and that the alleged two persons were not at all eye witnesses to the incident. But, in the meanwhile, the respondent Corporation proceeded with the matter and in the departmental proceedings, he was found guilty of all the charges and as a result, an order of dismissal was passed on 05.07.2000 based on the report of the enquiry officer relating to the accident took place on 21.12.1994. He further submitted that having suffered an order of dismissal from service on 05.07.2000, the petitioner failed to challenge the said order of dismissal from service, with a fond hope that he would be acquitted in a criminal case. However, when the trial Court in C.C.No.98 of 1995 acquitted him in the said criminal case, he submitted a representation dated 17.02.2004 to the respondent to review the order of dismissal from service. It is further fairly stated that even after reaching the age of superannuation on 12.09.2001, the said representation was not disposed of, therefore, he approached this Court by filing writ petition No.35438 of 2005 seeking for a direction to consider the said representation. This Court, by order dated 08.11.2005, directed the respondent to consider the said representation of the petitioner within eight weeks. Pursuant thereto, the present impugned order has been passed against the petitioner.

3. With this background, he further contended that since the trial Court acquitted him from all the charges levelled against him by holding that the First Information Report itself was not correct and that the alleged two persons were not at all eye witnesses to the said incident, the respondent Corporation ought to have reviewed the order of dismissal dated 05.07.2000. On that basis, he prayed for allowing the writ petition.

4. But, this Court finds it difficult to subscribe to the above said submissions for the reasons stated below:

The petitioner was subjected to the departmental proceedings for the charges levelled against him and finally, the said department proceedings were ended with an order of dismissal from service on 05.07.2000. But, the petitioner did not prefer any appeal challenging the said order and hence, it is not open to him to make a representation to review the order of dismissal dated 05.07.2000 passed in a departmental proceedings based on the

preponderance of probability as he was subsequently acquitted by the trial Court in a criminal case relating the above said accidents on 21.12.1994 and 21.12.1999. Besides, the second respondent, looking into the case of the petitioner that he had already reached the age of superannuation in the year 2001, rightly refused to entertain his prayer by the impugned order dated 13.12.2005. When the order of dismissal became final on 05.07.2000, the further contention of the petitioner that some leniency would be shown since he has put in more than 30 years also does not appeal to this Court for the reasons stated above.

5. Accordingly, the writ petition fails and the same is dismissed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore Division - I) Limited,
No.37, Mettupalayam Road,
Coimbatore - 641 043.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Coimbatore Division - I) Limited,
No.37, Mettupalayam Road,
Coimbatore - 641 043.

1 cc to Mr.M/s.Sai, Bharath and Ilan ,Advocate, SR.No.9004

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