

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.8.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.P.No.12710 of 2016
and
W.A.SR 74645 of 2011

1. The Secretary to Government,
Home (Transport-II) Department,
Fort St. George, Secretariat,
Chennai 600 009.

2. The Commissioner of Transport,
Ezhilagam, Chennai 600 005.

Petitioners/Appellants

Versus

N.Chandrasekaran

Respondent/Respondent

For petitioners: Mrs.A.Srijayanthi,
Special Govt. Pleader

CMP.No.12710 of 2016: Civil Miscellaneous petition filed under order IV Rule 9(4) of AS rules to condone the delay of 1689 days in representing WA.SR.No.74645/2011 sought to be preferred against the order, dated 11/02/2011 made in WP.NO.4297 of 2009 to issue a Certiorarified Mandamus to call for the records of the 1st Respondent in connection with the impugned order passed by him in G.O.2(D) No.63, Home (Transport II) Department, dated 31/01/2007 and quash the same and direct the respondents to superannuate the petitioner from service and grant him all consequential service and monetary benefits.

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader appearing for the petitioners/appellants.

2. It appears that on the allegation of misappropriation/corruption, the respondent-officer was kept under suspension and he withstood the enquiry. The enquiry authority found that the charges have not been proved and exonerated the writ petitioner of the charges. However, the disciplinary authority, having differed with the report of the enquiry officer, decided to proceed with the charges against the writ petitioner. But, subsequent to the order passed by this court in the writ petition, the disciplinary authority has chosen to drop the charges. In the circumstances, nothing remains to be proceeded against the petitioner, Moreover, the disciplinary proceedings commenced in the year 2007. Now, the writ petitioner is shown to have superannuated.

3. The writ petitioner joined the service as Motor Vehicle Inspector Grade II on 4.7.1975 through a selection conducted by Tamil Nadu Public Service Commission. Later, he was promoted as Motor Vehicles Inspector Grade I on 22.11.1978 and as Regional Transport Officer on 7.3.2001. The allegation against the writ petitioner was that the Motor Vehicles Inspectors have issued certificates with reference to fitness of the vehicles and the petitioner is one of such persons, who were alleged to have issued fitness certificates for non-existence vehicles and following the investigation conducted by the Central Bureau of Investigation, the writ petitioner, alongwith other persons, were charge sheeted before the IX Additional Sessions Special Court for CBI, Chennai, in C.C.No.22 of 1997, which is still pending. That appears to have prevailed upon the authority to re-consider the issue by filing the writ appeal against the order passed in the writ petition when the charges were already dropped on their own.

4. Further, we are of the view that since a criminal case is pending consideration, and the writ petitioner has already retired from service, it may not be called for interference at this stage. Even the learned Single Judge has also given liberty to the disciplinary authority to take a decision in accordance with law and the disciplinary authority is shown to have chosen to drop the charges. In the circumstances, the writ appeal is filed with an inordinate delay of more than four years in re-presenting the appeal.

5. On the point of delay in re-presentation itself, we feel it is not appropriate to admit the writ appeal at this stage. Further, it is found that already a criminal case is pending consideration before the Special Court for CBI Cases which would take care of the situation and meet the ends of justice. Therefore, there is no prima facie case against the writ petitioner. Accordingly, we dismiss the petition to condone the

delay in re-presenting the writ appeal as there is inordinate delay of more than four years and consequently, the writ appeal is also dismissed.

-s/d-

Assistant Registrar (CSIV)

True Copy

Sub-Assistant Registrar

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