



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P(MD) No.23687 of 2016

and

WMP(MD) No.17029 of 2016

Kalimuthu

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation,
Virudhunagar Zone,
Virudhunagar District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Parvai:Sattam/sa4/5735/6B/16, dated 24.05.2016 passed by the respondent and quash the same as illegal.

For Petitioner : Mr.M.Iqbal

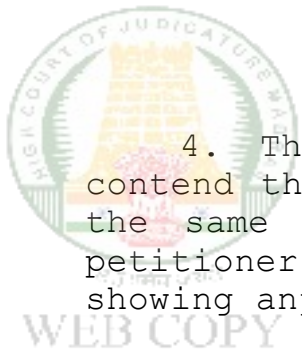
For Respondent : Mr.A.P.Muthupandian

O R D E R

The prayer in the writ petition is for a Writ of Certiorari to call for the records pertaining to the order passed by the respondent in Parvai: Sattam/sa4/5735/6B/16, dated 24.05.2016 and quash the same.

2. By the impugned order dated 24.05.2016, the petitioner was placed under suspension and the said suspension is still continuing. Subsequent to the said suspension order, a charge memo was issued against the petitioner on 21.06.2016 departmentally and the enquiry, according to the learned counsel for the petitioner, has not commenced yet. Therefore, challenging the same, the petitioner has come out to file this writ petition with the aforesaid prayer.

3. By consent of both the learned counsel for the petitioner as well as the learned Standing counsel for the respondent, the writ petition itself is taken up for final disposal.



4. The learned counsel appearing for the petitioner would contend that whatever be the guilt on the part of the petitioner, the same can be decided only after enquiry and therefore, the petitioner cannot be kept under prolonged suspension without showing any progress in the enquiry.

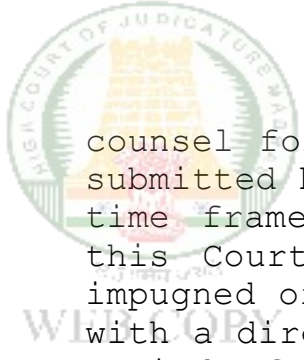
5. Per contra, the learned Standing counsel appearing for the respondent would contend that after the charge was given to the petitioner, the enquiry is in progress. Moreover, this is the second accident, for which the petitioner is the cause and both the accidents are fatal in nature.

6. In view of the said carelessness on the part of the petitioner, the petitioner has been placed under suspension and immediately, charge was given against him and the enquiry is in progress and therefore, once the enquiry is completed, the guilt of the petitioner can be decided and accordingly, suitable orders would be passed by the disciplinary authority, if the charges framed against the petitioner is proved.

7. The learned counsel appearing for the petitioner would also contend that if the respondent Corporation is not willing to take him back by revoking the suspension order, by putting him in the same job of driver, he can be placed in any other job at the respondent Corporation, for which, the petitioner would be ready and willing. However, the learned Standing counsel appearing for the respondent would contend that for the suspension period, certainly, the petitioner would be entitled for subsistence allowance which can be paid to the petitioner without fail, if the same is already not paid. The reason for placing the petitioner under suspension is to conduct the enquiry as early as possible and decide the same on merits. If the petitioner is put back in possession by way of the earlier job of driver, the Transport Corporation would suffer and that the petitioner may not do the job to the satisfaction of the respondent. In that view of the matter, the learned counsel for the respondent would contend that the time frame may be fixed by this enquiry would be completed and accordingly, the issue can be decided on merits.

8. This Court has carefully considered the rival submissions made by the learned respective counsel.

9. No doubt that the petitioner has been under suspension from 24.05.2016. If the ratio of the judgment of the Apex Court in Ajay Kumar Case as referred by the learned counsel for the petitioner is applied, the suspension should have been revoked within three months period and unless there is a compelling reason for the prolonged suspension beyond three months period, the same should come to an end and the petitioner should be taken back for the job. However, since the petitioner has involved in the accident second time that too fatal in nature, the submission of the learned



counsel for the respondent would have some force. Since it is also submitted by the learned counsel for the respondent that within the time frame, they are ready and willing to complete the enquiry, this Court is of the view that instead of interfering with the impugned order of suspension, this writ petition can be disposed of with a direction to the respondent to complete the enquiry within a period of two months from the date of receipt of a copy of this order. In the mean while, the respondent shall pay the subsistence allowance payable to the petitioner, including arrears of the same from 24.05.2016 and continue to pay the same till a decision is taken, pursuant to the enquiry which is on.

10. With these directions, the writ petition is disposed of and the respondent shall pay the subsistence allowance immediately at any rate within a period of one week from the date of receipt of a copy of this order. No costs.

Connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (Crl.Side)

/True copy/

Sub Assistant Registrar(CS)

To

The General Manager,
Tamil Nadu State Transport Corporation,
Virudhunagar Zone,
Virudhunagar District.

+1cc to M/s.M.M.Iqbal, Advocate in SR.No.79626.

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05.12.2016

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