

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.30063 of 2017

K.Selvaraj

.. Petitioner

-vs-

1. State of Tamil Nadu rep.by Secretary
Transport Department
Fort St.George
Chennai
2. The General Manager
Tamil Nadu Government Transport
Corporation (Kumbakonam) Limited
Nagapattinam Region
Nagapattinam District .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records pertaining to the orders in Tha.A.Po.Ka/T11/Ve/056/2014 dated 25.01.2017 and to quash the same.

For Petitioner :: Mr.M.Senthil

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader for R1

ORDER

This writ petition has been filed challenging the impugned order of punishment dated 25.1.2017 imposing punishment of stoppage of increment for five years on the petitioner, on the ground that when the petitioner is said to have caused an accident due to the rash and negligent driving, in a claim made by the family of the deceased before the Motor Accident Claims Tribunal, the respondent Corporation, filing a counter affidavit, took a stand that the accident was not caused due to the rash and negligent driving of the petitioner. While so, the petitioner cannot be prosecuted. The reason is that if the petitioner is prosecuted and finally found guilty in the departmental proceedings, that would also go against them before the Tribunal, where the claim petition is pending.

2. Rather, this should have been thought of by the respondent Corporation. When the Transport Corporation itself has prosecuted the petitioner knowing pretty well that he was found rash and negligent while driving for causing the accident, the petitioner cannot take that stand. Secondly, the departmental proceedings initiated against the petitioner also would show that he was found guilty on the basis of the report of the enquiry officer dated 21.12.2016. Subsequently, he was also furnished with the copy of the report along with the second show cause notice calling upon to submit his written representation to the enquiry report. After complying with the principles of natural justice, the petitioner was found guilty of causing the accident.

3. In view of the finding of facts reached by the enquiry officer holding the petitioner guilty, which has been confirmed by the disciplinary authority, this Court is not inclined to entertain the writ petition under Article 226 of the Constitution of India to interfere with the punishment. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.32633 of 2017 is also dismissed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ss

To

1. The Secretary to Government
Transport Department
Fort St.George
Chennai

2. The General Manager
Tamil Nadu Government Transport
Corporation (Kumbakonam) Limited
Nagapattinam Region
Nagapattinam District

+ 1 cc to Mr.M.Senthil Advocate,SR.83445
+ 1 cc to The Govt.Pleader, SR.83648

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NR 12/12/2017