

IN THE HIGH COURT JUDICATURE AT MADRAS

DATED : 16.02.2017

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.3878 of 2017 and
WMP.No.3940 of 2017

A.Selvaraj

.. Petitioner

Vs

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Head Office, Mettupalayam Road,
Coimbatore District.

2. The General Manager,
Tamil Nadu State Transport Corporation,
Tirupur Division,
Kangeyam Road,
Tirupur.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 19.01.2017 by revoking the oral order of suspension and reinstate the petitioner into service.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.P.Kannan Kumar

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. Heard Mr.R.Sankarasubbu, learned Counsel appearing for the petitioner and Mr.P.Kannan Kumar, learned Counsel who accepts notice on behalf of the respondents 1 and 2.

3. The petitioner in the affidavit filed in support of the petition would averre among other things that he is employed in Tamil Nadu State Transport Corporation (Coimbatore Limit) as a Technician (S.R.T.M.13503) over a period of 20 years and put

hard, sincere and unblemished record of service to the satisfaction of the superior officers. It is further averred by the petitioner that he along with two other persons, namely, Ganpathy, S/o.Palanisamy and Sigamani, S/o.Dharman were arrested in connection with a case in Crime No.145/2014 registered by Azhiyar Police, originally, for 'Man Missing', later on, altered into Sections 13(2), 18-B, 39 of Unlawful Activities (Prevention) Act, 1967. The petitioner was arrested and since his period of incarceration exceeds 48 hours, he was placed under suspension on 11.06.2015. and later on he came out on bail. The case after investigation has also culminated into a charge sheet by the jurisdictional court and it is pending trial.

4. Mr.R.Sankarasubbu, the learned Counsel for the petitioner would submit that the petitioner is kept under prolonged suspension and would submit that unless the criminal court convicts him, he is presumed to be innocent and since the charge sheet has also been filed before the jurisdictional court which has taken on file, there cannot be any impediment on the part of the respondents to review the order of suspension and pass appropriate orders. In this regard, the petitioner also submitted a representation dated 19.01.2017 to the 1st respondent and since, no order has been passed, the petitioner is constrained to file this writ petition. It is also represented that the petitioner is yet to be paid the subsistence allowance and appropriate directions may be issued.

5. Per contra, Mr.P.Kannan Kumar, learned Counsel for the respondents 1 and 2 would submit that the allegation levelled against the petitioner are very serious in nature and considering the said fact and circumstances only, the petitioner was placed under suspension and would further submit that the representation submitted by the petitioner will be given disposal at an early date in accordance with law.

6. This Court bestowed its attention to the rival submissions and also perused the materials placed before him.

7. The Hon'ble Supreme Court of India reported in 2015 [7] SCC 291 [Ajay Kumar Choudhary V. Union of India through its Secretary and another] has considered the issue relating to prolonged suspension and held that the currency of suspension order should not extend beyond three months and within this period, if the memorandum of charge sheet is not served on the delinquent/accused, a reasoned order must be passed for extension of suspension.

8. The Personnel and Administrative Reforms Department of the Government of Tamil Nadu in Letter [Ms]. NO.43/N/2015-3

dated 26.04.2016 issued administrative instructions giving certain guidelines for consideration of the issue relating to prolonged suspension in respect of persons whoever involved in criminal cases.

9. Though the Writ Petitioner has sought for a larger prayer, in the light of the facts and circumstances of the case, without going into the merits of the case as projected by the petitioner, directs the 1st respondent to consider and dispose of the petitioner's representation made on 19.01.2017 on merits and in accordance with law and also consider the claim for non-payment of subsistence allowance and pass orders within a period of eight weeks from the date of receipt of a copy of this Order and communicate the decision taken to the writ petitioner.

10. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Assistant Registrar (CS VI)

/true copy/

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu State Transport Corporation,
Head Office, Mettupalayam Road,
Coimbatore District.

2. The General Manager,
Tamil Nadu State Transport Corporation,
Tirupur Division,
Kangayam Road,
Tirupur.

+1cc to Mr.R.Sankarasubbu, Advocate SR.No.10168

+1cc to Mr.P.Kannan Kumar, Advocate SR.No.10712

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