

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26146 of 2017

D.Sivarama Chandran

.. Petitioner

-vs-

The Divisional Security Commissioner
Railway Protection Force
Salem Division
Salem

... Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to defer the departmental proceedings initiated by the respondent in the charge memo dated 31.07.2017 in his proceedings No.SA/XP.227/R.153/DS/Con/K/PTJ/2017 till the criminal case pending against the petitioner herein in PRC No.14 of 2017 pending on the file of Judicial Magistrate-II, Coimbatore is disposed off.

For Petitioner :: Mr.R.Nalliyappan

For Respondent :: Mr.P.T.Ramkumar

ORDER

The petitioner is serving as a Constable under the respondent. While he was travelling in a bus bearing registration No.TN 33 N 2395 on 10.4.2017, Mr.Pandiyarajan, the Conductor of the bus asked the petitioner to get the ticket for the journey. But the petitioner, on payment of fare, took the ticket upto Ukkadam. However, he travelled beyond Ukkadam till Coimbatore. After seeing the petitioner travelling without ticket from Ukkadam to Coimbatore, the bus Conductor asked the petitioner to take further ticket beyond Ukkadam. Refusing to take the further ticket, the petitioner, showing his authority as a Police Constable and abusing the bus Conductor, created public nuisance inside the bus and after some altercation, it is alleged that the petitioner took a knife from his pocket and stabbed the bus Conductor causing grievous injuries resulting in his hospitalisation. Subsequently, a criminal complaint was lodged against him on the file of C1 Kattoor Police Station,

Coimbatore and the same was also registered in Crime No.313 of 2017 for the offence under Sections 307 and 332 of IPC on the same day. In the light of the criminal case registered against the petitioner, he was also placed under suspension on 10.4.2017. Subsequently, the order of suspension was revoked on 27.7.2017 and he had joined duty. Thereupon he was also furnished with a charge memo on 31.7.2017. In the meanwhile, a charge sheet was also filed before the Court of the Judicial Magistrate No.II, Coimbatore on 19.6.2017. However, challenging the charge memo issued to the petitioner, the present writ petition has been filed.

2. Learned counsel for the petitioner, assailing the impugned charge memo, submitted that when the petitioner is charge sheeted on the file of the learned Judicial Magistrate No.II, Coimbatore, as the charges issued in the charge memo dated 31.7.2017 and the charges laid on the file of the learned Judicial Magistrate No.II, Coimbatore are one and the same, as a matter of right, the petitioner is entitled to ask for a direction to keep the departmental proceedings in abeyance. Again reading the charges levelled against the petitioner in the charge memo dated 31.7.2017 and the charges laid before the learned Judicial Magistrate No.II, Coimbatore, he submitted that when both the charges are one and the same, if the departmental proceedings are permitted to go on, the petitioner would be in a compulsion to disclose his weaknesses or defence before the criminal Court that will cost him heavily not only before the criminal Court, but also before the departmental proceedings.

3. But, this Court is unable to find any merit in his contentions, for the following reasons. The petitioner, being a Police Constable, on the date of occurrence, while travelling in a bus bearing registration No.TN 33 N 2395 on 10.4.2017, not having purchased a valid ticket till Coimbatore, admittedly, had continued his journey beyond Ukkadam. While so, when the Conductor approached the petitioner sitting inside the bus and asked him to get the ticket beyond Ukkadam to Coimbatore, the petitioner, being brought up in a disciplined force, should not have abused him. Moreover, the allegation levelled against him in the charge sheet shows that he had taken out a knife from his pocket and stabbed the bus Conductor without any justification whatsoever. But the said charges are not repeated in the charge memo dated 31.7.2017. Therefore, this Court is not inclined to entertain the writ petition. Secondly, as a member of the disciplined force, it is better for the petitioner to face the disciplinary proceedings at the earliest point of time, so that he will be able to prove his innocence. Hence, this Court is not inclined to direct the respondent to keep the disciplinary proceedings in abeyance till the disposal of the criminal case. Thirdly, the charge sheet has been filed recently on 19.6.2017.

This would take a long time for the criminal Court to take a final call. For this reason also, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition stands dismissed. The respondent-Department is directed to proceed with the enquiry initiated against the petitioner at the earliest point of time and decide the same on merits. Consequently, W.M.P.No.27789 of 2017 is also dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ss

To

The Divisional Security Commissioner
Railway Protection Force
Salem Division
Salem.

+1cc to Mr.R.Nalliyappan, Advocate Sr. 71815
+1cc to Mr.P.T.Ramkumar, Advocate SR. 71896

W.P.No.26146 of 2017

AR(V)
VR(01/11/2017)

सत्यमेव जयते

WEB COPY