

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.01.2017

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.5480 of 2011 &
M.P.No.1 of 2011

1 R.CLEMENT RAJ
S/O.RANGASAMY
KEEKALUR VILLAGE AND POST
KEELPENNATHUR TALUK
TIRUVANNAMALAI DIST. PETITIONER

Vs

1 THE GENERAL MANAGER
TAMILNADU STATE TRANSPORT CORPORATION
(VILLUPURAM) TIRUVANNAMALAI REGION
TIRUVANNAMALAI. Respondent

The writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the respondent in his proceedings Ka.Ku.No.28/250028/D1/TNSTC(V)/TVM/09 dated 22.01.2011 and quash the same consequently directing the respondent to reinstate the petitioner into service with all attendant benefits and backwages.

For Petitioner : Mr.L.Karthiga

For Respondent : Mrs.D.Jayapriya for
Mr.P.Paramasivadoss

ORDER

Petitioner has come with the present writ petition challenging the order of termination passed by the respondent. According to the petitioner, during his service, he had been charged and a criminal case in FIR.No.104 of 2009 had been registered against him. The said criminal case had been ended in acquittal in C.C.No.132 of 2007 before the learned Judicial Magistrate No.II, Tiruvannamalai and subsequently departmental proceedings has been initiated and the respondent Corporation after conducting enquiry had terminated the petitioner which is illegal.

2. Learned counsel for the respondent corporation has raised the preliminary objection on the ground that this

writ petition is not maintainable as the petitioner without availing the efficacious remedy available to him before the appropriate forum has approached this court, hence, seeks for dismissal of the writ petition.

3. In reply to the same, learned counsel for the petitioner would contend that writ petition is very much maintainable as this Court has to look into the merits of the claim made by the petitioner and pass appropriate orders.

4. Heard the learned counsel on either side and perused the materials available on record.

5. It would be appropriate to rely on the decision rendered by this Court in W.A.No.258 of 2016 on 20.06.2016 (M/s.HIL Limited vs. The Assistant Commissioner and others) wherein, in paragraphs 18 & 19 it has been held thus:

18. Therefore, in the light of the aforesaid decisions, we are of the considered view that where there is a mechanism for redressal by way of filing an appeal before the appellate authority, especially, in the case of assessment and re-assessment of tax, imposition of penalty and for obtaining relief in respect of any improper order passed by the revenue authority, the assessee could not be permitted to abandon the machinery and invoke the jurisdiction of High Court under Article 226 of the Constitution of India. The assessee can very well approach the appellate authority and raise all the grounds urged before this Hon'ble Court. Therefore, there is no warranting circumstances requiring interference with the order passed by the Writ Court and hence, the same is confirmed. Since we find that the Writ Petition itself is not maintainable, 20 before this Court, the appellant may agitate the issue in question before the appellate authority.

19. In the result, the Writ Appeal fails and the same is dismissed. Liberty is granted to the appellant to file an appeal if so advised within a period of four weeks from today. In the event of filing an appeal by the assessee, the appellate authority shall consider the same only on merits and independently without being influenced by any observations of this Court. No order as to costs. The connected Civil Miscellaneous Petition is dismissed."

6. In the light of the decision rendered in M/s.HIL Limited referred supra, the petitioner without availing the efficacious alternative remedy has rushed up this Court and therefore, writ petition is not maintainable. However, it is made clear that this court has not gone into the merits of the case and the same has to be decided only before the Appellate Court. It is always open to the petitioner to file appropriate statutory appeal, if he is so advised, within a period of four weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

THE GENERAL MANAGER
TAMILNADU STATE TRANSPORT CORPORATION
(VILLUPURAM) TIRUVANNAMALAI REGION
TIRUVANNAMALAI.

W.P.No.5480 of 2011
&
M.P.No.1 of 2011

KK(CO)
CA(03/04/2017)

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