

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH  
AND  
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.2296 of 2012 and M.P.No.2 of 2012,  
W.A.No.2407 of 2012 and M.P.No.2 of 2012,  
W.P. (MD)No.11251 of 2009 and M.P. (MD)Nos.1 of 2009 and 1 of 2010  
and  
W.P. (MD)No.11265 of 2009 and M.P. (MD)Nos.1 and 2 of 2009  
and 1 of 2010

W.A.Nos.2296 and 2407 of 2012:

- 1.The Secretary to Government,  
Home (Transport-II) Department,  
Government of Tamil Nadu,  
Fort St.George, Chennai-600 009.
- 2.The Transport Commissioner / Principal Secretary,  
Chepauk, Chennai-600 005.
- 3.The Commissioner,  
Tribunal for Disciplinary Proceedings,  
Trichy (in-charge), Trichy. .... Appellants in both appeals

-vs-

N.Balagurunathan .... Respondent in W.A.No.2296  
of 2012

A.Angamuthu .... Respondent in W.A.No.2407  
of 2012

Appeals filed under Clause 15 of the Letters Patent, against  
the order passed by this Court in W.P.Nos.7043 of 2008 and 4068  
of 2009 dated 04.03.2011.

WP.No.7043 of 2008:Petition filed under article 226 of the  
constitution of India to issue a Writ of Mandamus directing the  
respondents herein to include the name of the petitioner in the  
panel for promotion to the post of Regional Transport Officer  
for the year 2006-2007 and promote the petitioner as Regional  
Transport Officer without reference to the charge in  
Rc.No.270/2006/A1 in T.D.P.No.15/2007 dated 29.06.2007 on the  
file of the 3rd respondent.

Prayer in WP.NO.4068 of 2009:Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to include the name of the Petitioner in the panel for promotion to the post of Regional Transport Officer for the year 2008-2009 and promote the petitioner as Regional Transport Officer without reference to the charge in RC.No.270/2006/A1 in T.D.P.No.15/2007 dated 29.06.2007 on the file of the 3rd respondent.

W.P. (MD) Nos.11251 and 11265 of 2009:

A.Angamuthu ... Petitioner in W.P. (MD) No. 11251 of 2009

N.Balagurunathan ... Petitioner in W.P. (MD) No. 11265 of 2009

-vs-

- 1.The Secretary to Government,  
Home (Transport-II) Department,  
Government of Tamil Nadu,  
Fort St.George, Chennai-600 009.
- 2.The Transport Commissioner,  
Chepauk, Chennai-600 005.
- 3.The Commissioner,  
Tribunal for Disciplinary Proceedings,  
Tiruchirappalli. ... Respondents

Prayer in WP. (MD) Nos.11251 and 11265/2009:

Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the proceedings of the third respondent in T.D.P.No.15/2007 (Rc.No.270/2006/A1) dated 29.06.2007 relating to Charge No.1 as instructed by the first respondent and quash the same as far as the petitioners is concerned.

For Appellants in the                    :: Mr.S.T.S.Moorthy  
Writ Appeals and respondents    Addl.Advocate General  
in the Writ Petitions               assisted by  
                                                 Mr.P.S.Sivashanmugasundaram,  
                                                 Special Government Pleader

For Respondents in the  
Writ Appeals                                ::Mr.Muthappan

For petitioners                                ::Mr.M.Muthappan for  
in the Writ Petitions                        Mr.Veerasekaran

COMMON JUDGMENT

(Judgment of the Court was delivered by  
HULUVADI G.RAMESH, J.)

The petitioner in W.P.(MD)No.11251 of 2009 / respondent in W.A.No.2407 of 2012, has filed a writ petition in W.P.No.4068 of 2009 for a direction to the official respondents to include his name in the panel for promotion to the post of Regional Transport Officer for the year 2008-2009 and promote him as Regional Transport Officer without reference to the charge in Rc.No.270/2006/A1 in T.D.P.No.15 of 2007 dated 29.06.2007 on the file of the Commissioner, Tribunal for Disciplinary Proceedings, Tiruchirappalli. The petitioner in W.P.(MD)No.11265 of 2009 / respondent in W.A.No.2296 of 2012, has filed a writ petition in W.P.No.7043 of 2008 for the same prayer, but relating to the panel for promotion for the year 2006-2007.

2.After considering the facts and circumstances of the case, the learned single Judge of this Court has passed a common order on 04.03.2011 allowing the writ petitions with a direction to the official respondents to consider their case for promotion in accordance with law.

3.Challenging the said order, the State has preferred the appeal in W.A.No.2296 of 2012 in respect of the petitioner in W.P.(MD)No.7043 of 2008 and W.A.No.2407 of 2012 in respect of the petitioner in W.P.(MD)No.4068 of 2009.

4.The writ petitions in W.P.(MD)Nos.11251 and 11265 of 2009 have been filed by the respective individuals, to quash the disciplinary proceedings relating to Charge No.1 in so far as they are concerned. When the above writ appeals were taken up on

13.11.2017, it was represented that W.P.(MD)Nos.11251 and 11265 of 2009 were filed by the respondents in the writ appeals, challenging the final order passed by the disciplinary authority and hence the Registry was directed to post those writ petitions also along with the present writ appeals. Now we are taking up all the writ appeals and the writ petitions and disposing of the same by a common judgment.

5.The learned Addl.Advocate General appearing for the State has submitted that even though the prayer does not refer to the quashing of the charge memos, the learned single Judge has erred in stating that in view of the settled law, the continuation of proceedings is nothing but misusing the process of law, and has quashed the charge sheet on the ground of delay. He further submitted that the charges framed are serious in nature and hence the same ought not to have been quashed by the learned single Judge, when the enquiry was under process.

6.The learned counsel for the writ petitioners in W.P.(MD) No.11251 and 11265 of 2009 / respondents in the writ appeals herein, has submitted that the learned single Judge has dealt with the matter in proper perspective and has quashed the charge memos on the ground that charges are vague, and hence the same does not require any interference by this Court.

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

8.In the order passed in W.P.Nos.4068 of 2009 and 7043 of 2008 along with connected writ petitions, the learned single Judge has held as under:

"This Court is considering the nature of the allegations raised in the charge and the delay with which the same is issued, constrained to hold that same do not stand the test of reasonableness and if the disciplinary proceedings into such charge is allowed to go on, it is only a futile exercise prejudicial to the interest of the petitioner and is likely to affect his promotional chances as such, it is the fit case wherein the charge memo is to be necessarily quashed and the authority concerned is further directed to consider his claim for promotion. It is also brought to the notice of this Court that the petitioner in the writ disposed of earlier is also duly considered and he was promoted to the next promotional cadre."

9.On a perusal of the charges framed, we find that the same are serious in nature. On a surprise check conducted by the District Vigilance and Anti Corruption official at the office of the Regional Transport Office, Thanjavur on 10.09.2003, certain irregularities were found. During the period between 01.01.2003

to 10.09.2003, it was noticed that these individuals, by corrupt and dishonest motive, obtained illegal gratification ranging from Rs.10/- to Rs.4300/- through the touts as a motive or reward for discharging their duties in respect of the day to day transactions, viz. Registration of vehicles, issuance of driving license, fitness certificate, transfer of ownership of vehicles and granting permits. Thus, for carrying out even the day to day activities, they demanded illegal gratification. These are very serious charges which need to be enquired into, in accordance with law. But, the learned single Judge has taken a lenient view by quashing the charges itself on the ground that the same are vague and also on the ground of delay. We are not in agreement with the order passed by the learned single Judge. We are of the considered view that the charges have to be proceeded with by conducting due enquiry into the same. Thus, the authorities are directed to proceed with the disciplinary proceedings, in accordance with law, by taking independent decision without being influenced by the observations made herein.

10.Now, it appears that promotions have been subsequently granted to the delinquents. In view of the stand now taken by us, we hereby hold that the promotions of the petitioners in W.P.(MD)Nos. 11251 and 11265 of 2009 are subject to the result of the disciplinary proceedings. It is also made clear that they should be given reasonable opportunity to put forth their defence.

11.The writ appeals are allowed to the extent indicated above. Consequently the connected miscellaneous petitions are closed. No costs.

12.In view of the order now passed allowing the above writ appeals, the writ petitions in W.P.(MD)Nos.11251 and 11265 of 2009 are closed. Consequently the connected miscellaneous petitions are also closed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

km

To

1.The Secretary to Government,  
Home (Transport-II) Department,  
Government of Tamil Nadu,  
Fort St.George, Chennai-600 009.

2.The Transport Commissioner / Principal Secretary,  
Chepauk, Chennai-600 005.

3.The Commissioner,  
Tribunal for Disciplinary Proceedings,  
Trichy (in-charge), Trichy.

+1 cc to the Govt Pleader sr 89714

+4 cc to Mr.M.Muthappan Advocate sr 89196 & 89197

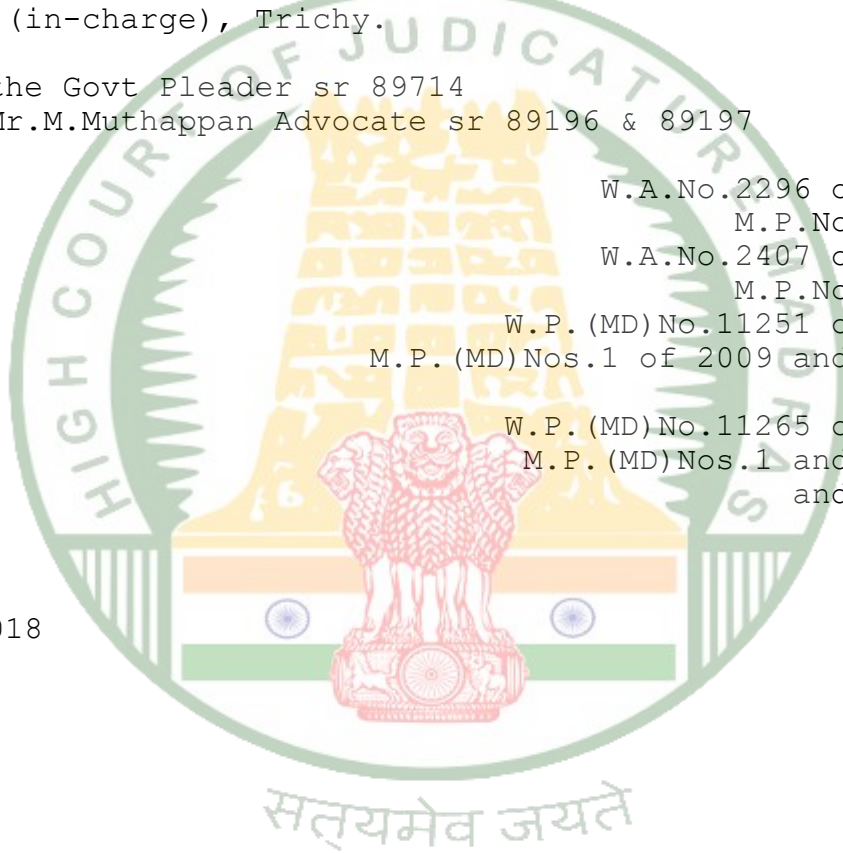
W.A.No.2296 of 2012 and  
M.P.No.2 of 2012,

W.A.No.2407 of 2012 and  
M.P.No.2 of 2012,

W.P. (MD)No.11251 of 2009 and  
M.P. (MD)Nos.1 of 2009 and 1 of 2010  
and

W.P. (MD)No.11265 of 2009 and  
M.P. (MD)Nos.1 and 2 of 2009  
and 1 of 2010

gmr (co)  
aa22/01/2018



WEB COPY