



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2017

CORAM

THE HONOURABLE MR. JUSTICE T. RAJA

W.P (MD) No. 15339 of 2017

WEB COPY

K. Angappan

... Petitioner

-vs-

1. The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai.

2. The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Dindigul Region,
Dindigul.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent herein to dispose the petitioner's appeals dated 25.02.2016 and 11.07.2016 which were preferred challenging the order of punishment of stoppage of increment for a period of three years with cumulative effect imposed by the second respondent vide his proceedings in Ref. Sa. Thu: A5: 1194, dated 18.12.2007 within the time stipulated by this Court.

For Petitioner

: Ms. K. Vidya

For Respondents

: Mr. A. Jeyaram

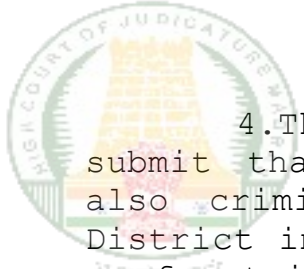
For Transport Corporation

O R D E R

By consent of both sides, this writ petition itself is taken up for final disposal.

2. Heard the learned counsel appearing for the petitioner and the learned standing counsel for the transport Corporation.

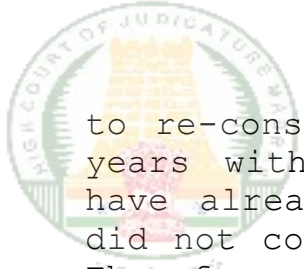
3. The petitioner has come to this Court seeking a Writ of Mandamus, directing the respondents to dispose of his appeals dated 25.02.2016 and 11.07.2016, which were preferred against the punishment of stoppage of increment for a period of three years with cumulative effect imposed by the second respondent vide his proceedings dated 18.12.2007.



4. The learned counsel appearing for the petitioner would submit that when the petitioner was charged departmentally and also criminally before the learned Judicial Magistrate, Theni District in C.C.No.215 of 2007, before the criminal case was taken up for trial, departmental proceedings were initiated against him and the Enquiry Officer, on completion of the enquiry, submitted his report on 03.09.2007. On the basis of the report of the Enquiry Officer, the second respondent on 28.09.2007 issued a Show Cause Notice with a copy of the report asking him to submit his reply. Accordingly, the petitioner submitted his further explanation to the enquiry report denying all the charges. But, the second respondent, without advertting to his explanations, has imposed the punishment of stoppage of increment for three years with cumulative effect vide proceedings in Ref.Sa.Thu:A5:1194, dated 18.12.2007.

5. Since one Manager, who was not an eye witness, has deposed against the petitioner stating that the petitioner was only responsible for the said accident, the said stand was completely altered by the second respondent, when a claim petition was filed by the legal heirs of the deceased in M.C.O.P Nos.232 of 2009 and 233 of 2009 on the file of the learned Motor Accidents Claims Tribunal, Theni District, claiming compensation from the Corporation, wherein, the second respondent by filing a counter affidavit, denying the averments made in the said claim petition, specifically took a stand that the petitioner was not responsible for the said accident and the petitioner cannot be found guilty even departmentally. Moreover, the learned Judicial Magistrate, Theni District vide judgment dated 21.04.2016 in C.C.No.215 of 2007 has held the petitioner not guilty of offences alleged against him. Therefore, after the judgment dated 21.04.2016 in C.C.No.215 of 2007, the petitioner filed an appeal on 11.07.2017 to the first respondent to reconsider the punishment of stoppage of increment for three years with cumulative effect. However, the same was not considered, till date. Therefore, the petitioner is present before this Court with this present writ petition.

6. This Court is unable to find any merit in this writ petition. The reason is that the petitioner was already found guilty of charges levelled against him in charge memo dated 04.05.2007. Finally, the Enquiry Officer also found him guilty in his report dated 03.09.2007. Based on the report of the Enquiry Officer, the petitioner was also issued with 2nd Show Cause Notice along with a copy of the report of Enquiry Officer calling upon him to submit further explanations. After receiving an explanation from the petitioner, the second respondent imposed the punishment of stoppage of increment for three years with cumulative effect vide proceedings dated 18.12.2007. The said punishment having been imposed on 18.12.2007, the petitioner, after the judgment given by the Criminal Court in C.C.No.215 of 2007, after a delay of nine years, cannot file an appeal before the first respondent



to re-consider the punishment of stoppage of increment for three years with cumulative effect, when the departmental proceedings have already concluded on 18.12.2007. Admittedly, the petitioner did not come forward to prefer any appeal against the said order. Therefore, taking strength of the Criminal Court finding, it is not open to him to file an appeal with a huge delay of 9 long years. Therefore, this Court is not able to find any reason to interfere with the said punishment dated 18.12.2007.

7. Hence, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Dindigul Region,Dindigul.

+1cc to M/S.J.LAWRANCE, Advocate SR.No.73128

Mrn/RR

MAS/SV-MMS/SAR2:13.11.2017:3P-4C

W.P(MD)No.15339 of 2017

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