

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2018

CORAM:

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

W.A.No.1616 of 2017
and
C.M.P.No.21146 of 2017

D.Sivarama Chandran Appellant/Petitioner

... Vs ...

The Divisional Security Commissioner,
Railway Protection Force,
Salem Division,
Salem. Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of The Letters Patent, against the order dated 06.10.2017 passed by this Court in W.P.No.26146 of 2017. 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 Appellant : Mr.R.Nalliyappan
For Respondent : Mr.P.T.Ramkumar

JUDGMENT

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

Being aggrieved by the order dated 06.10.2017 passed by the learned single Judge in W.P.No.26146 of 2017, this writ appeal is preferred by the appellant.

2. The appellant herein has filed the above writ petition seeking to issue a Writ of Mandamus directing the

respondent to defer the departmental proceedings initiated by him 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 in P.R.C.No.14 of 2017 pending against the writ petitioner on the file of Judicial Magistrate No.II, Coimbatore, is disposed of.

3. Heard the learned counsel for the parties for some time and perused the materials available on record.

4. The brief facts of the case are that the appellant was serving as a Constable under the respondent. While he was travelling in a bus bearing Registration No.TN-33-N-2395 on 10.04.2017, Mr.Pandiyarajan, the Conductor of the bus asked the appellant to get the ticket for the journey. But the appellant, on payment of fare, took the ticket upto Ukkadam. However, he travelled beyond Ukkadam till Coimbatore. After seeing the appellant travelling without ticket from Ukkadam to Coimbatore, the Conductor of the bus asked the appellant to take further ticket beyond Ukkadam. But, the appellant refused to take the further ticket and abused the bus Conductor and created public nuisance inside the bus and after some altercation, it is alleged that the appellant took a knife from his pocket and stabbed the bus Conductor causing grievous injuries. Hence, a criminal complaint was lodged against the appellant on the file of C1 Kattoor Police Station, Coimbatore and the same was registered in Crime No.313 of 2017 for the offences under Sections 307 and 332 IPC. Since criminal case was registered, the appellant was suspended from service on 10.04.2017 and subsequently, the order of suspension was revoked on 27.07.2017 and he had joined duty. Thereafter, the appellant was furnished with a Charge Memo on 31.07.2017 and in the meanwhile, a Charge Sheet was also filed before the Court of the Judicial Magistrate No.II, Coimbatore on 19.06.2017. Challenging the said Charge Memo, the appellant herein has filed the above writ petition for the aforesaid prayer. After hearing both the parties, the learned single Judge has dismissed the said writ petition and as against the dismissal order passed, the present writ appeal has been filed.

5. Learned counsel appearing for the respondent relied upon the judgment of this Court reported in 2017 (6) CTC 252 in the case of S.Kathhiravan Vs. The Commandant, Office of the DIGP, Group Centre, CRPF, Chennai. The said judgment was passed following the judgment of the Apex Court reported in 2007 (5) CTC 632 (SC) in the case of Indian Overseas Bank, Anna Salai and another Vs. P.Ganesan and others, wherein, the Apex Court has held that the disciplinary proceedings cannot be deferred until the criminal case is disposed of.

6. On the other hand, the learned counsel appearing for the appellant sought to allow the appeal by relying upon the judgment of the Apex Court reported in 1999 (2) CTC 579 (SC) in the case of Capt M.Paul Anthony Vs. Bharat Gold Mines Ltd., and another, wherein, the Apex Court has held as follows:-

"(ii) If the Departmental proceedings and the Criminal case are based on identical and similar set of facts and the charge in the Criminal case against the Delinquent Employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the Departmental proceedings till the conclusion of the Criminal case."

7. We are of the view that the witnesses cited either in the criminal case or in the Department, may be one and the same, but having regard to the nature of the case and the overt act attributed against the appellant, it needs to take priority on the issue, in the interest of the Department's reputation. The Department cannot lay blame in taking action against the erring officials. Apart from that, the commission of the offences is against the general public. We do not find any error in the order passed by the learned single Judge. Accordingly, the Writ Appeal is devoid of merits and the same is liable to be dismissed.

8. In the result, the Writ Appeal is dismissed and the order passed by the learned Single Judge in W.P.No.26146 of 2017, dated 06.10.2017 is confirmed. However, it is for the appellant to press for early disposal of the criminal case, if he so desires. No costs. The connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Jr1

+ 1 cc to MR. R. Nalliyappan, Advocate Sr.10046

+ 1 cc to Mr.P.T. Ramkumar, AdvocateSr.10660

W.A.No.1616 of 2017

SR(CO)
EU(05/04/2018)