

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :07.06.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.596 of 2015
and
M.P.No.1 of 2015

Collector of Tirunelveli-Cum
Regional Transport Authority,
Tirunelveli.

..Petitioner

vs

- 1.M.Ganesan,
Aannai Chellam Transport,
No.15, Vallalar Street,
Sankaran Koil, Tirunelveli District.
- 2.The Tamilnadu State Transport,
Corporation (Tirunelveli) Ltd.,
Tirunelveli.
- 3.The State Transport Appellate Tribunal,
Chennai-104.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in M.V.Appeal No.88 of 2014 dated 03.11.2014 on the file of Tamil Nadu State Transport Appellate Tribunal, Chennai-104 the third respondent here in and quash the same.

For Petitioner : Mr.M.Elumalai
Government Advocate
For R1 : Mr.K.Hariharan
For R2 : No Appearance
For R3 : Tribunal.

O R D E R

The relief sought for in this writ petition is for a direction to call for the records in M.V.Appeal No.88 of 2014 dated 03.11.2014 on the file of Tamil Nadu State Transport Appellate Tribunal, Chennai-104.

2.The learned counsel appearing on behalf of the first respondent made a submission that the writ petition itself is liable to be rejected in limini in view of the fact that the writ petitioner has no authority to file a writ petition. The sole argument advanced is that the Sub Ordinate Authority has no authority to file a writ petition, challenging the order passed

by the Appellate authority. The issue was decided by this court with reference of the orders passed earlier by this Court in W.P.Nos.15859, 15860 of 2013 and 15439 of 2013 on 05.07.2016. The operative portions of the above said order are extracted here under:-

"4. The first issue to be considered is as to whether the Regional Transport Authority could maintain the writ petitions filed by him, as his personal right has not been affected. That apart, he being a subordinate statutory authority under the scheme of the Motor Vehicles Act, it has to be seen as to whether such writ petitions are maintainable.

5.This issue is no longer res-judicata and has been considered by the Hon'ble Division Bench of this Court in the case of The Secretary, Regional Transport Authority, Erode and another K.S.Senthilnathan in Writ Appeal Nos.867 & 868 of 2007 vide Judgment dated 06.01.2009 wherein the Hon'ble Division Bench after taking into consideration the earlier decisions of this Court in the cases of Regional Transport Authority V. State Transport Appellate Tribunal reported in AIR 1995 Mad 226 and The Regional Transport Authority, Namakkal Region V. The State Transport Appellate Tribunal, Madras and 3 others reported in 1994 WLR 316, has dismissed the appeal of the Regional Transport Officer.

6.In the light of the same, W.P.Nos.15859 and 15860 of 2013 are dismissed as not maintainable.

7.Consequently, there will be a direction to the Regional Transport Authority to implement the order of the Tribunal made in My Appeal No.1/2013 dated 11.03.2013 within a period of six weeks from the date of receipt of a copy of this order.

8.The writ petition in W.P.No.15439/2013 is disposed of. No costs. Consequently, connected Miscellaneous petitions are closed."

3. In view of the fact that this Court has decided the issues in respect of the competency of the writ petitioner to prefer a writ petition, challenging the order passed by the Appellate Tribunal. The present writ petition deserves to be considered in the light of the observations made in the earlier order cited supra. Accordingly, the W.P.No.596 of 2015 is dismissed as not maintainable. Consequently, the original Transport Authority is directed to implement the orders of the Tribunal passed in M.V.Appeal No.88 of 2014 dated 03.11.2014 within a period of eight weeks from the date of receipt of copy of this order.

5. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

dss/kak

To

1. Collector of Tirunelveli-Cum
Regional Transport Authority,
Tirunelveli.
2. The Tamilnadu State Transport,
Corporation (Tirunelveli) Ltd.,
Tirunelveli.
3. The State Transport Appellate Tribunal,
Chennai-104.

+1 cc to the Govt pleader sr 35825
+1 cc to Mr.K.Hariharan Advocate sr 35901

W.P.No.596 of 2015
and M.P.No.1 of 2015

aa12/06/2018

सत्यमेव जयते
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