



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 19.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.18001 of 2015 and
M.P(MD)Nos.1 and 2 of 2015

R.Marimuthu

.. Petitioner

Vs

1. The Managing Director,
Office of the Managing Director,
Tamil Nadu Civil Supplies Corporation,
Head Office, Kilpauk, Chennai-10.
2. The General Manager,
Administration,
Tamil Nadu Civil Supplies Corporation,
Head Office, Kilpauk, Chennai-10.
3. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Sivagangai Region,
Collector Office Campus,
Sivagangai.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records connected with the impugned dismissal order in Na.Ka.No.AT4/3543/2013, dated 15.12.2014 on the file of the third respondent and to quash the same as illegal and consequently to direct the respondents to permit the Petitioner to retire from service along with all retirement benefits in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani

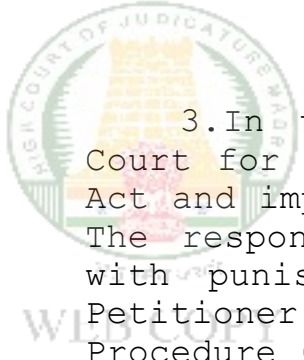
For Respondents : Mr.S.Ramasamy

1 to 3

ORDER

The Petitioner has challenged the dismissal order, dated 15.12.2014 passed by the third respondent.

2.The only ground of attack is that the person who has passed the dismissal order is not competent to pass the said order. For Class-III employees major punishment may be imposed by the Regional Manager and that the said authority has rightly passed an order.



3. In this case, the Petitioner was convicted by Criminal Court for the offence under Section 138 of Negotiable Instruments Act and imposed with punishment of one year rigorous imprisonment. The respondents have conducted departmental enquiry and imposed with punishment of dismissal from service. The case of the Petitioner is that in terms of Section 320(8) of Criminal Procedure Code, when the issue is compromised, it is deemed to be an acquittal and that the order passed by the third respondent dismissing the Petitioner from service have got to be interfered with. The compromise entered under Section 320(8) of Cr.P.C is only for the purpose of settlement of parties between the person who has issued the cheque and the accused. It amounts to acquittal and it is only for the purpose of criminal act committed by the accused, as there is a provision for compounding of the offence under Section 320(8) of Cr.P.C and at no stretch of imagination, the same can be extended to departmental proceedings and that if such principle is applied, then all the convicts try to compromise and compound the offence and try to nullify the departmental action.

4. Hence this Court is of the view that dismissal order passed by the third respondent dismissing the Petitioner from service cannot be interfered with. At this stage, the Petitioner has filed an affidavit to the effect that the respondents are not willing to reinstate the Petitioner into service, as the Petitioner having retired from service would be given the terminal benefits, if he is otherwise eligible. The Petitioner has given an undertaking before this Court in the affidavit, dated 19.09.2018 that he will not claim any back-wages but he will be entitled to earned leave salary.

5. With the above observations, the Writ Petition is disposed of. No costs. connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

+ 1 CC TO Mr.S.RAMASAMY, ADVOCATE IN SR No. 85459
+ 1 CC TO Mr.S.MALAIKANI, ADVOCATE IN SR No. 85500

VSN

TE/RSK/SAR-4 : 29/10/2018 : 2P/3C

W.P(MD)No.18001 of 2015 and
M.P(MD)Nos.1 and 2 of 2015
19.09.2018