

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.04.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10026 of 2019

K.Kothandaraman

..Petitioner

vs

The Managing Director,
The Tamilnadu State Transport
Corporation (Villupuram) Limited,
Imayam Street,
Salamedu,
Villupuram - 605 602.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to consider the representation of the petitioner dated 01.03.2019 within a reasonable time as this Honorable Court may deem fit and proper to the facts and circumstances of this case.

For Petitioner : Mr.M.V.Kalai Chithram

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondent to consider the representation of the petitioner dated 01.03.2019.

2.The writ petitioner was recruited as a Driver(Reserve Crew). The Vehicle, which was driven by the writ petitioner met with an accident. A Criminal case was registered by the Inspector of Police, Cheyyar Police Station in Crime No.632 of 2012 under Section 279 and 304 A of Indian Penal Code, 1860.

3.The learned counsel for the writ petitioner states that the criminal case ended with an order of acquittal. However, the departmental disciplinary proceedings were initiated on account of the accident took place during the year 2012. The departmental disciplinary proceedings initiated against the writ petitioner was concluded and a final order of punishment was issued in proceedings dated 28.03.2015, imposing the punishment of stoppage of increment for two years with cumulative effect.

4. Admittedly, the writ petitioner has not challenged the order of punishment, which was issued in proceedings dated 28.03.2015. Now, the writ petitioner filed the present writ petition to consider the representation submitted by him on 01.03.2019 in order to drop the punishment.

5. It is stated in the representation that in the Criminal Court judgment dated 05.12.2016, the writ petitioner was acquitted and therefore, the punishment is to be dropped.

6. Such a course of action adopted by the writ petitioner can never be accepted. The nature of the departmental disciplinary proceedings and the criminal proceedings are distinct and different. High standard of proof is required to convict a person under the Criminal Court of Law. However, no such strict proof is required to punish a public servant under the Discipline and Appeal Rules. Even preponderance of probabilities are sufficient to punish the public servant under the Discipline and Appeal Rules. Thus, the standard of proof required in a criminal case is totally different and distinct from the proof required to punish a Government servant under the Discipline and Appeal Rules.

7. This being the nature of the proceedings, this Court is of an opinion that merely because the writ petitioner was acquitted from the criminal charges, the same would not confer any right of exoneration from the departmental disciplinary proceedings. Even an order of acquittal will not be a ground for exonerating the employees from the departmental disciplinary proceedings. The very factum regarding the accident was established. Based on the accident, the departmental disciplinary proceedings were initiated. An independent enquiry was conducted by appointing an Enquiry officer. Finally, the punishment of stoppage of increment of two years with cumulative effect was imposed. The writ petitioner has not challenged the order of punishment before the higher authority or before the Court of Law. Thus, he had accepted the order of punishment and now after the judgment and decree passed by the Criminal Court on 05.12.2016, he cannot sent a representation on 01.03.2019 and request this Court to issue direction to consider the representation and the relief sought for in the representation is to exonerate the writ petitioner for the punishment already imposed.

8. Even recently, the Hon'ble Supreme Court of India in the case of The Government of India and another Vs. P.Venkatesh in Civil Appeal No.2425 of 2019 dated 01.03.2019 held as follows:-

"This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a

quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process."

9.The Hon'ble Supreme Court of India discouraged the issuance of such directions by the Hon'ble High Court without adjudicating the issues and passing orders on merits. Thus, the writ petitioner cannot make an attempt to quash the punishment already imposed in the year 2015 by submitting a representation in the year 2019 and such a representation would not provide any cause for the writ petitioner to file a writ petition and get a direction.

10.This being the factum of the case, it is for the writ petitioner to approach the higher authorities, if it is permissible for the purpose of redressing his grievances.

11.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Managing Director,
The Tamilnadu State Transport
Corporation (Villupuram) Limited,
Imayam Street,
Salamedu,
Villupuram - 605 602.

+1cc to Mr.S.R.Karthikeyan, Advocate, S.R.No.32344

SS(CO)

RRS (09/05/2019)

W.P.No.10026 of 2019

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