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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1253 of 2014
and
M.P.No.1 of 2014

V.Palanisamy

... Petitioner

-vs-

1.Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division-I) Ltd.,
Villupuram - 605 602.

2.General Manager,
Tamil Nadu State Transport Corporation,
(Villupuram Division-I) Ltd.,
Villupuram - 605 602.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to modify the order of punishment of reduction of pay from Rs.4,215/- to the minimum pay of Rs.3,390/- in the scale of Rs.3390-75-5490 for a period of 2 years passed by the Appellate Authority (i.e) 1st respondent dated 13.08.2003 into stoppage of increment for a period of one year without cumulative effect.

For Petitioner : Mr.N.Sundaramurthy

For R1 : Mr.P.Siva Shanmuga Sundaram

Spl. Govt. Pleader

For R2 : Mr.M.Vijayendra Kumar

For Mr.A.Antony Arockia Raja

O R D E R

This Writ Petition has been filed for a direction to the 1st respondent to modify the order of punishment of reduction of pay



from Rs.4,215/- to the minimum pay of Rs.3,390/- in the scale of Rs.3390-75-5490 for a period of 2 years passed by the Appellate Authority (i.e) 1st respondent dated 13.08.2003 into stoppage of increment for a period of one year without cumulative effect.

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2. The case of the Petitioner is that the 2nd Respondent has passed an order of reduction of pay by three years and after three years, the period of pay reduction will be operated to postpone the future increments. Subsequently, the appeal filed by the employee was considered and the punishment was modified by the Appellate Authority on 13.08.2003, thereby reducing the period of punishment into two years instead of three years. The reasoning for initiation of such action against the petitioner was on the ground that several employees, including the Petitioner had joined and participated in the strike and aggrieved by such initiation, some of the employees had already approached the Court by filing W.P.Nos.10110 to 10116 of 2009 and obtained an order in their favour on 14.10.2009 on the basis of the concession made earlier to the similarly placed persons in W.P.No.19415 of 2000 dated 27.08.2008 and the punishment was modified into the one of stoppage of increment for a period of one year without cumulative effect.

3. It is seen that in the case on hand, the petitioner has accepted the punishment and has also undergone the same. The petitioner had not even evinced any interest to approach this Court immediately after disposal of the appeal in the year 2003 and it was only in the year 2014, the present Writ Petition has been filed. The contention of the Respondents, that the Petitioner, having joined the post and undergone the punishment based on the conduct, has knocked at the doors of this Court after the orders of the Appellate Authority in 2003 and after a period of five years from the date of the order in the Writ Petition, has merit acceptance.

4. The petitioner, being an employee of essential service, should have avoided in participation of the illegal strike and though this Court had exercised its discretionary power in the case of similarly placed persons, they all had approached this Court in time and therefore, the Petitioner cannot be treated on par with his colleagues. It is not known as to why the Petitioner had not immediately come down to question such punishment and the act of the Petitioner can merely be termed as "Fence Sitting" for his lack of decisiveness. Since there has been a considerable delay on the part of the Petitioner in filing a petition before the Court, in the considered opinion of this Court, the Petitioner is not entitled to any relief, as it is not the duty of the Court to wake up a person from his slumber, who slept over for several years and grant relief.



5. In view of what is stated herein-above, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To:

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division-I) Ltd.,
Villupuram - 605 602.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Villupuram Division-I) Ltd.,
Villupuram - 605 602.

+2cc to Mr.A.Antony Arockiaraj,, Advocate, S.R.No. 62544
+1cc to Mr.N.Sundaramurthy, Advocate, S.R.No. 62555

W.P.No.1253 of 2014

RSI (CO)
GN(22/08/2019)