

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.11.2019

CORAM

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.32086 of 2019

K.S.Abubucker

Petitioner

Vs

- 1 State of Tamil Nadu
Rep. by Principal Secretary to Government
Transport Department
Fort St.George
Secretariat Chennai -9.
- 2 The Director
Motor Vehicles Maintenance Department
Velacheri Chennai 600 042.
- 3 Mr.K.Senthilvel
General Manager Government Central
Automobile Workshop Velachery
Chennai 600 042.

Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of MANDAMUS, Directing the 1st respondent to take appropriate legal action against the 3rd respondent for having committed the irregularities while holding the office of Director (i/c) from 01/10/2013 to 01/04/2014 and for other delinquency committed by considering the representation submitted by the petitioner dated 28/10/2019.

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.A.N.Thambidurai, Spl.G.P.

ORDER

- 1.The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus, to direct the 1st respondent to take appropriate legal action against the 3rd respondent for having committed the irregularities while holding the office of Director (i/c) from 01/10/2013 to 01/04/2014 and for other delinquency committed by considering the representation submitted by the petitioner dated 28/10/2019.
- 2.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.
- 3.The case of the petitioner is that the petitioner was appointed as Auto Mobile Engineer in Motor Vehicles Maintenance Department coming under the Transport Department in the year 1993 and he retired on attaining on the age of superannuation on 31.03.2017. At the stage of retirement, based on audit objection a charge memo dated 31.03.2017 was issued against the petitioner regarding certain irregularities in the matter of purchase of oil and lubricant, resulting in avoidable additional expenditure has

pointed out by the Principal Accountant General. While so, according to the petitioner the third respondent while officiating as Director(in charge) from 01.10.2013 to 01.04.2014, purchased oil and lubricant to the tune of Rs.30,03,282/- without calling for open tender as required under the provisions of the Tamil Nadu Tender Transparency Act and Rules and thereby the third respondent has committed certain irregularities by purchasing the oil and lubricants directly from the private dealers and IOCL despite the Accountant General raised objection in this regard. The value of such purchase during the month of February 2014 was Rs.17,24,148.61/- and in March 2014 it was Rs.38,65,579.68/-, pointing out these irregularities, the said to have been committed by the third respondent. It appears that the petitioner has made a representation to the first respondent on 28.10.2019, seeking to take appropriate action against him. However, as there was no action forthcoming despite his representations, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner would submit that the petitioner was issued with a charge memo on the date of his retirement based on audit objection and his terminal

benefits were not settled and the petitioner also submitted a detailed explanation to the charge memo. The learned counsel would further submit that the third respondent has committed the irregularities by purchasing oil and lubricants directly from the private dealers without calling for open tender as required under the provisions of the Act and procurement has been made by the third respondent without adhering the norms and procedure contemplated under the Act and he made a representation on 28.10.2019 to the first respondent bringing to his notice, the irregularities committed by the third respondent, however no action has been initiated against the third respondent. Therefore, the learned counsel would implore this Court to give appropriate direction to the first respondent to take legal action against the 3rd respondent.

5. The learned Government Special Pleader appearing for the respondents would submit that the disciplinary action initiated against the petitioner is pending and in the mean time the petitioner has made a representation to the first respondent pointing out certain irregularities committed by the third respondent and even this Court gives any direction to the

second respondent to consider the representation the same would be considered after affording an opportunity to the third respondent and submissions made by the learned counsel appearing for the petitioner. The learned counsel would submit that if this Court directs the respondents to consider the dispose of the representation made by the petitioner, the same would be complied with and the representation would be disposed of in accordance with law.

6. Considering the facts and circumstances of the case and the submissions made on either side and in view of the fact that the representation made by the petitioner is pending, the second respondent is directed to consider the same and pass appropriate order therein in accordance with law, after affording an opportunity to the third respondent within a period of twelve weeks from the date of receipt of copy of this order.

7. This writ petition is accordingly disposed of. No costs.

14.11.2019

Index: Yes / No
Internet: Yes / No
Speaking / Non-Speaking order
jrs

To

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