

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-04-2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25873 of 2018

And

W.M.P.Nos.30070 and 30073 of 2018

P.Kadhirvel

.. Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
No.37, MTP Road,
Coimbatore-641 043.

2.The Branch Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
Udumalaipet Branch,
Udumalaipet (TK),
Tirupur District.

3.The Assistant Manager (Legal-2),
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
No.37, MTP Road,
Coimbatore-641 043.

4.Mr.F.Sonnaimuthu

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order in 1/G13/420/TNSTC/2014 dated 16.4.2018 passed by the third respondent and quash the same.

For Petitioner : Mr.S.Ezhil Raj

For Respondents-1to3: Mr.R.S.Selvam,
Government Advocate.

O R D E R

The enquiry notice dated 16.4.2018, issued by the third respondent, directing the writ petitioner to appear for the departmental enquiry on 12.2.2018, is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that there is a delay in initiation of the departmental disciplinary proceedings and therefore, the writ petitioner cannot be enquired into by the competent authorities. Such an argument can never be accepted in view of the fact that the writ petitioner is bound to appear before the Enquiry Officer and explain the circumstances, including the ground of delay.

3. At this point of time, this Court cannot adjudicate the merits and the demerits of the issues regarding the allegations or the legal grounds raised. It left open to the writ petitioner to participate in the process of enquiry in order to establish his innocence or otherwise. An enquiry is proposed to be conducted in view of the accident took place, while the writ petitioner was serving as a Driver.

4. Thus, the respondents are bound to conduct an enquiry in order to cull out the truth, so also the duties and the responsibilities mandatory on the part of the writ petitioner to establish his innocence by submitting his explanations/objections or the documents, if any.

5. This being the course to be adopted under the Rules on departmental disciplinary proceedings, this Court cannot quash the notice issued by the respondents, directing the writ petitioner to participate in the process of enquiry.

6. No writ can be entertained against the enquiry notice or against the enquiry report. The disciplinary proceedings initiated must be allowed to be completed in all respects and the same has to reach its logical conclusion and intermittent intervention are certainly not preferable. Even the charge-memo or the enquiry notice per se will not provide any cause of action for the delinquent. Therefore, the writ petition against the pending disciplinary proceedings are to be entertained only on exceptional circumstances.

7. The writ proceedings can be entertained if the notice or enquiry was conducted by an incompetent authority or if the same is in violation of statutory Rules. If there is an allegation of mala fides, then the authorities against whom such mala fides are raised, are to be impleaded as a party respondent in the writ petition.

8. It is needless to state that the respondents, on initiation of departmental disciplinary proceedings, must ensure that the same is concluded within the reasonable period of time. Prolonged disciplinary proceedings would cause prejudice to the interest of the employees also. Thus, on initiation of the departmental disciplinary proceedings, the competent authorities must be vigilant and conclude the same and pass final orders as expeditiously as possible.

9. This being the principles to be followed, it is left open to the writ petitioner to participate in the process of enquiry and the authorities competent also should ensure that such departmental disciplinary proceedings are concluded. In the event of any non-cooperation on the part of the writ petitioner, the same shall be recorded in the departmental disciplinary proceedings by the competent authorities.

10. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

Svn
To

1.The General Manager,
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(Coimbatore) Ltd.,
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+1 CC to Mr.R.S.Selvam, Advocate sr 33313.

W.P.No.25873 of 2018

SP(25/04/2019)