



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.7525 of 2020

WEB COPY

R.Sivanesan

... Petitioner

Vs.

1.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai.

2.The Commissioner of Police,
Subramaniapuram, Trichy.

3.The Inspector of Police,
Srirangam Police Station,
Trichy.

4.Sagayam Anbarasu,
Inspector of Police,
K.K.Nagar Police Station,
Trichy.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to initiate Departmental action such as Disciplinary Proceedings against the fourth respondent based on the petitioner's representation dated 29.05.2020.

For Petitioner : Mr.N.Mohan

For Respondent : Mr.K.Mu.Muthu,
Additional Government Pleader

O R D E R

Mr.K.Mu.Muthu, learned Additional Government Pleader takes notice for the respondents.

2. The prayer sought for in this writ petition is for a Writ of Mandamus, directing the respondents 1 and 2 to initiate departmental action such as disciplinary action against the fourth respondent based on the petitioner's representation dated 29.05.2020.

3. The petitioner is a Block Resource Teacher Educator, BRC Andaman, Trichy. The case of the petitioner is that, there had



been money transaction between the petitioner and the wife of the fourth respondent. Out of the said transaction, some misunderstanding arose. It is the claim of the petitioner that, the fourth respondent being the Inspector of Police in service, having misused his official position, attempted to get back the money of the fourth respondent's wife from the petitioner and in this regard, on 18.03.2020, there had been an incident where the petitioner had been shabbily treated by the fourth respondent. Pursuant to which, the wife of the petitioner, on 21.03.2020 had given a police complaint against the fourth respondent. However, on the file of the fourth respondent police station, instead of filing an F.I.R against the fourth respondent, an F.I.R has been registered against the petitioner thereby it is evident that the fourth respondent has misused his official position as Inspector of Police. Therefore, the petitioner had made a representation to the higher authorities ie., the first and second respondents on 29.05.2020 to take disciplinary action against the fourth respondent and since no action has been taken on the said representation to take disciplinary action against the fourth respondent by the first and second respondents, the petitioner is before this Court with the aforesaid prayer.

4. In support of the said case as projected by the learned counsel appearing for the petitioner, he would submit that, since the fourth respondent misusing his official position has been acting against the interest of the petitioner, disciplinary action can very well be taken against the fourth respondent, for which even though written request has been made by the petitioner on 29.05.2020 to the respondents 1 and 2, since no action was forthcoming from the said respondents, the petitioner is entitled to seek for a Writ of Mandamus. Therefore, the present Writ Petition is filed.

5. However, the learned Additional Government Pleader appearing for the respondents would submit that, there has been a complaint against the petitioner, where an F.I.R has been registered and investigation is pending on the file of the fourth respondent police station.

6. Be that as it may, this Court is wondering in hearing a writ petition like this as this is the Court where service disputes are being redressed under Article 226 of the Constitution of India, which is an extraordinary jurisdiction conferred in this Court.

7. What is service dispute has already been decided by the Court of law where if there is any service dispute arises between the employee and employer and even the service dispute may start from the stage of recruitment or appointment of employee or staff to the Government, Government Organizations, Quasi Governmental Organizations, Statutory Bodies etc., they can be considered as service disputes.



8. Here in the case on hand, admittedly the dispute is between the petitioner and the fourth respondent. It is not related to any service dispute of the petitioner as the petitioner has not projected any service dispute of him to redress such grievance before this Court.

9. The learned counsel appearing for the petitioner would canvass before this Court that, since the fourth respondent allegedly misused his official position, anybody can set the law in motion to take disciplinary action against the fourth respondent.

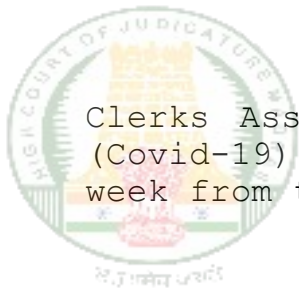
10. I am afraid to have such a proposition before this Court, which is a Writ Court dealing adversary writ petitions relating to service disputes under Article 226 of the Constitution of India, where neither public interest litigation nor non-service dispute can be entertained.

11. If at all the petitioner has got any grievance against the fourth respondent that there has been a dispute between the petitioner and the wife of the fourth respondent with regard to money transaction and for recovery of money, the petitioner can adopt the legal means for recovery of money. If there is any criminal case, which according to the petitioner, was wrongly registered against the petitioner or his family members, still the petitioner has got remedy under law to rectify his grievance. If at all the petitioner has got any grievance that his complaint against the fourth respondent to register a criminal case has not been entertained by the authorities of the Police Department, still the petitioner has got legal remedy to avail.

12. For all these grievances as have been projected by the learned counsel appearing for the petitioner on behalf of the petitioner, the petitioner has got legal remedy, which definitely not by way of a writ petition as if it is a service dispute before this Court.

13. Therefore, I have no hesitation to hold that this writ petition is not at all maintainable. When this issue was pointed out to the learned counsel appearing for the petitioner that this writ petition is not maintainable, still the learned counsel appearing for the petitioner has argued the case to convince the Court thereby a valuable time of this Court has been taken away by the petitioner's counsel knowing well that this Court is not inclined to entertain the writ petition, as it is not maintainable. Therefore, this Court while rejecting this writ petition, is also inclined to impose costs on the petitioner. Accordingly, this writ petition deserves to be dismissed with costs.

14. In the result, the writ petition is dismissed as not maintainable with costs of Rs.3,000/- (Rupees Three Thousand Only), paid to the Madras High Court, Madurai Bench Advocate



Clerks Association, for the purpose of using the same for Corona (Covid-19) prevention or curing activities, within a period of one week from the date of receipt of a copy of this order. No Costs.

Sd/-

Assistant Registrar

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pm

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Director General of Police,
Kamarajar Salai, Mylapore, Chennai.
- 2.The Commissioner of Police,
Subramaniapuram, Trichy.
- 3.The Inspector of Police,
Srirangam Police Station, Trichy.
- 4.Copy to: The Advocate Clerks Association of
Madurai Bench of Madras High Court,
Madurai.

Order made in
W.P (MD)No.7525 of 2020

Dated:13.07.2020

SMA/06/08/2020/4P/5C