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IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 04.08.2021

C O R A M

THE HON'BLE MR.JUSTICE C.SARAVANAN

WRIT PETITION NO.23022 OF 2018

(Through Video Conferencing)

S.Kumaraguru

... Petitioner

Vs.

Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Rep. By its General Manager,
(Kumbakonam) Limited,
No.140, Public Office Road,
Velipalayam, Nagapattinam - 611 001.
Nagapattinam Region Office.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the Respondent issued in proceedings No.j/m/ngh-o6/-vogp-421-2002, dated 23.11.2002 in the light of the orders of the Supreme Court in similar cases in Civil Appeal No.3503 of 1997 dated 07.04.1998, Civil Appeal No.4901 of 2005 dated 08.08.2005 and Civil Appeal No.1491 of 2006 dated 30.06.2008 and quash the same and consequently direct the respondent to pay the service benefits.

For Petitioner : Mr.D.Soundar Raj

For Respondent : Mr.D.Venkatachalam

O R D E R

This Writ Petition has been filed to quash the proceedings in No.j/m/ngh-o6/-vogp-421-2002, dated 23.11.2002 in the light of orders of the Hon'ble Supreme Court in similar cases.

2. It is the case of the petitioner that he was issued with a charge memo on 23.11.2002 and thereafter placed under suspension on 01.10.2004. Parallely criminal proceedings were initiated against the petitioner and other employees of the Respondent Transport Corporation. It is said to be pending before the Principal Judges Court in Kumbakonam.



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3. The learned counsel for the petitioner submits that due to the pendency of the criminal proceedings, the respondent have been delaying the disciplinary proceedings and therefore the disciplinary proceedings are liable to be dropped. In this connection, he refers the decision of this Court rendered in the following cases.

1) In R.Krishnamoorthy vs. The General Manager, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P.(MD)No.10793 of 2007, dated 10.03.2015.

2) In A.Mani vs. The General Manager, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P. (MD)No.9865 of 2015, dated 28.08.2018.

3) In S.Ayyaru vs. The General Manager, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P. (MD)No.20697 of 2015, dated 28.08.2018.

4) In R.Balakrishnan vs. The General Manager, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P.(MD)No.20716 of 2015, dated 28.08.2018.

5) In S.Parthipan and another vs. The General Manager, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P.(MD)No.13135 & 23281 of 2017, dated 04.01.2018.

6) In R.Tamilarasan vs. The Managing Director, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P.(MD)No.3491 of 2018, dated 21.03.2018.

7) In R.Murugaiyan vs. The General Manager, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P. (MD)No.21609 of 2018, dated 21.03.2018.

8) In K.Thiyagarajan vs. The Managing Director, Tamil Nadu State Transport Corporation (Kum) Ltd, Kumbakonam and another, W.P.(MD)No.4649 of 2018, dated 27.03.2018.

9) In M.Ravivarma vs. The Additional Chief Secretary to Government, Transport Department, Secretariat, Chennai-6 and another, W.P.(MD)No.33617,14138,17006 & 18581 of 2018 dated 21.03.2018.

4. Defending the impugned proceedings, the learned counsel for the respondent submits that the petitioner was involved in corruption along with other employees of the State Transport Corporation and therefore the criminal proceedings were also initiated against them because of which the disciplinary proceeding has not been completed.



5. Heard the learned counsel for the Petitioner and the learned counsel for the respondents and perused the impugned proceedings.

6. The fact that the criminal proceedings are pending for a long time ipso facto does not mean that the Respondent can delay the completion of the Disciplinary Proceedings. In a criminal proceedings, an accused can get an acquittal if the accused is able to establish a reasonable doubt in the case of prosecution. On the other hand, in a Disciplinary Proceedings, a guilt can be established based on the principles of preponderance of probability. If in case, such an officer is later found guilty in the criminal proceedings, the Department can suitably proceed under the relevant Disciplinary Rules applicable to such an employee irrespective of the outcome of the earlier Disciplinary Proceedings.

7. Under these circumstances, I direct the respondent to complete the Disciplinary Proceedings within a period of nine months from the date of receipt of a copy of this order by following the principles of natural justice.

8. This Writ Petition is disposed with the above directions. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Rep. By its General Manager,
(Kumbakonam) Limited,
No.140, Public Office Road,
Velipalayam, Nagapattinam - 611 001.
Nagapattinam Region Office.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.38256

W.P.No.23022 of 2018

CP(CO)
HS(26/08/2021)