



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.03.2021

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P(MD).No.8158 of 2017

K.Periyasamy

.. Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road,
Madurai-625016.

2.The General Manager,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region,
Dindigul-4.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the respondents to restore the pay of the petitioner as on 21.12.2004 as Rs.4870/- from the date of reduction on 21.12.2004 and consequently revise the pay and other consequential monetary benefits from the date of reduction on 21.12.204 in terms of 12(3) settlement dated 30.9.1992 and in the light of the Judgment of the Judicial Magistrate Court, Thirupathur in C.C.No.304/2003 dated 2.9.2007.

For Petitioner : Mr.S.Govindan

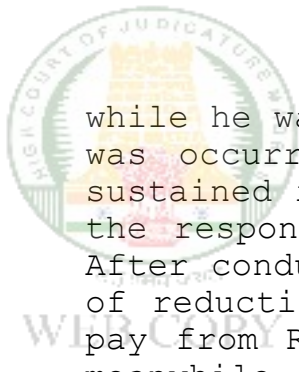
For Respondents : Mr.J.Senthil Kumaraiah

ORDER

This writ petition has been filed for a direction to the respondents to restore the pay of the petitioner as on 21.12.2004 as Rs.4870/- from the date of reduction on 21.12.2004 and consequently revise the pay and other consequential monetary benefits from the date of reduction on 21.12.204 in terms of 12(3) settlement dated 30.9.1992 and in the light of the Judgment of the Judicial Magistrate Court, Thirupathur in C.C.No.304/2003 dated 2.9.2007.

2. The case of the petitioner is that the petitioner was working as Driver in the respondent Corporation. On 11.08.2003,

<https://hcservices.ecourts.gov.in/hcservices/>



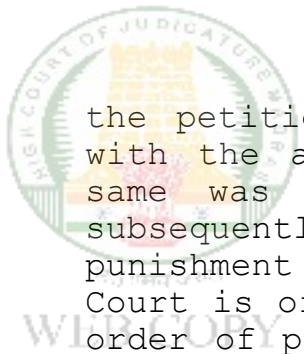
while he was on duty in the bus bearing No.TN-57-N-0902, an accident was occurred due to which a cyclist came from the opposite side sustained injury, subsequently, he died in the hospital. Thereafter, the respondent Corporation issued a charge memo to the petitioner. After conducting enquiry, the petitioner was imposed with punishment of reduction of increment for 5 stages. Thereby, they reduced the pay from Rs.4870/- to Rs.3480/- by order dated 21.12.2004. In the meanwhile, a criminal case was registered by the Law Enforcing Agency against the petitioner for the above said accident and after trial, the case was ended in acquittal on 2.9.2007. The grievance of the petitioner is that without considering the said acquittal, the respondents did not modify the said punishment. In the meanwhile, the petitioner was retired from service in the year 2019. Hence, the petitioner filed the present writ petition for the above said relief.

3. The learned counsel for the petitioner would submit that though the petitioner was issued with charge memo in the year 2004 for the accident occurred, however, subsequently, in the year 2007, the criminal case, which was registered against the petitioner, was ended in acquittal. He would further submit that as per the 12(3) settlement between the Management and Trade Union dated 30.9.1992, where a driver involved in an accident and held guilty of charge in domestic enquiry, subsequently, acquitted in the criminal case, the decision in the disciplinary case on the same charge may be revised based on the orders of the criminal Court. Therefore, as per the 12 (3) settlement, the petitioner is entitled to reconsider his earlier punishment imposed by the respondent Corporation, however, the respondent Corporation did not reconsider the said punishment. Further, the petitioner was retired from service in the year 2019. Hence, this Court may issue a direction to the respondents to revise the punishment in terms of 12(3) settlement dated 30.9.1992.

4. The learned counsel appearing for the respondent Corporation would submit that though initially the petitioner was imposed with a punishment of stoppage of increment for 5 stages and as against the order of punishment, the petitioner preferred an appeal before the first respondent. The first respondent confirmed the said punishment on 30.11.2007 by reducing the punishment from 5 stages to 3 stages of stoppage of increment without cumulative effect and the said modification of punishment was implemented and subsequently, the petitioner was retired from service. The learned counsel would further submit that unless the petitioner challenges the punishment imposed by the disciplinary authority before the appropriate appellate authority, the petitioner's claim for revision of pay does not arise. Hence, he prays for dismissal of this writ petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

<https://hcservices.courts.gov.in/hcservices> 6. The facts in the present case is not disputed. Admittedly,



the petitioner was issued with charge memo and thereafter imposed with the above said punishment by the original authority and the same was modified by the appellate authority and it appears, subsequently, the petitioner was retired from service and the said punishment was implemented while he was in service. Hence, this Court is of the view that unless the petitioner challenges the said order of punishment, this Court cannot issue a direction, based on the clauses contained in 12(3) settlement, in this writ petition. Hence, the prayer sought for in this writ petition cannot be granted.

7. Accordingly, this Writ Petition stands dismissed. No costs. However, liberty is given to the petitioner to work out his remedy in the manner known to law.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

PJL

To

1.The Managing Director,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road, Madurai-625016.

2.The General Manager,
Tamilnadu State Transport Corporation (Madurai) Ltd.,
Dindigul Region, Dindigul-4.

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