



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.10993 of 2019

K.Ravi

... Petitioner

-vs-

The General Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tirunelveli.

... Respondent

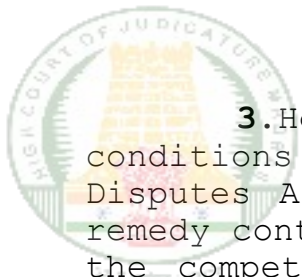
Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the Respondent to cancel the punishment of 3 years increment cut with cumulative effect in the light of the Judgment delivered by the Judicial Magistrate, Thiruvaikundam in C.C.No.300/2012, dated 23.02.2017 and settlement U/S 12(3) of Industrial Disputes Act 1947.

For Petitioner	: Mr.G.M.Xavier
For Respondent	: Mr.K.Sathyasingh, Standing Counsel

O R D E R

The relief sought for in the present writ petition is to direct the respondent to cancel the punishment of three years increment cut with cumulative effect.

2.The order of punishment has not been challenged in the writ petition. Contrarily, writ of mandamus has been sought for directing the respondent to cancel the punishment. Thus, this Court is of the opinion that the relief sought for itself is improper. This apart, mere acquittal in a criminal case is not a ground to seek exoneration from the departmental disciplinary proceedings or the punishment imposed. In all such cases, departmental proceedings are to be decided independently with reference to the documents and evidences available and to convict a person in a criminal law, strict evidence is required. However, no such proof is required for departmental disciplinary proceedings, as preponderance of probabilities are enough to punish an employee under the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Therefore, the departmental disciplinary proceedings and the criminal proceedings are distinct and different and the acquittal is not a ground for exoneration.



3.However, the petitioner is a workman and his service conditions are governed under the 12(3) Settlement of the Industrial Disputes Act, 1947. Therefore, the petitioner has to exhaust the remedy contemplated under the Industrial Disputes Act by approaching the competent labour court. With reference to the documents and evidences, such an elaborate adjudication cannot be done in a writ petition under Article 226 of the Constitution of India. Further, when an efficacious alternate remedy is available under the Industrial Disputes Act, High Court need not entertain a writ petition for adjudication of disputed facts. The findings of the labour court with reference to the facts and circumstances would be of greater assistance to exercise the power of judicial review under Article 226 of the Constitution. Exhausting the alternate remedy is the rule and entertaining a writ petition is an exception. Thus, the petitioner is at liberty to approach the labour court and in the event of approaching the labour court, the period during which the writ petition was pending before this Court is to be taken into consideration for the purpose of condoning the delay, if any, and the issues are to be decided on merits and in accordance with law as expeditiously as possible.

4.With the above liberty, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

The General Manager,
The Tamil Nadu State Transport Corporation (Tirunelveli) Ltd.,
Tirunelveli Region,
Tirunelveli.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-18228[F] dated 12/04/2022)

W.P.(MD) No.10993 of 2019
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RS (27.04.2022) 2P-3C