



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.492 of 2019

L.Kannadasan

... Petitioner

Vs.

1.Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Rep.by its Managing Director,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Trichy Region,
Trichy.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to re-consider the punishment of increment cut for 2 years with cumulative effect imposed on the petitioner vide the order passed by the second respondent in Ref:TNSTC/Kumba/Trichy/D7/3004/2017 dated 22.04.2017 based on the order dropping further action in the criminal case passed by the learned Judicial Magistrate, Ariyalur in Cr.M.P.No.1453/2018 dated 01.09.2018 and consequently direct the respondents to pass orders re-fixing the pay and terminal benefits and further directing the respondents to pay the difference amount in wages within the time limit that may be stipulated by this Court.

For Petitioner	:	Mr.A.Rahul
For Respondents	:	Mr.D.Sivaraman

O R D E R

The relief sought for in the present is to direct the respondents to re-consider the punishment imposed on the petitioner.

2. It is an admitted fact that the petitioner caused an accident which resulted in initiation of disciplinary proceedings. After conducting enquiry, the punishment of stoppage of increment for two years with cumulative effect was imposed on the petitioner.



3. The learned counsel appearing for the petitioner contended that the criminal case registered against the petitioner was ended as mistake of fact. Therefore, the case of the petitioner is to be re-considered

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4. The learned counsel appearing for the respondents has raised objections and relied on the contentions raised in paragraph No.10 of the counter affidavit which reads as under:-

10. I submit that the allegation in paragraph No.6 that in the criminal case, investigation was conducted and final report was filed on 31.05.2017 by the Inspector of Ariyalur Police Station referring the said complaint as mistake of fact are all false. As alleged by the petitioner, even though the police referring the said complaint as Mistake of fact, in the MCOP.No.186/2017 filed by the legal heirs of the deceased, the Motor Accident Claims Tribunal, Ariyalur has held that the accident has happened due to the fault of the petitioner and awarded sum of Rs.7,42,000/- as compensation for the death of the deceased. Hence, the accident has happened due to the fault of the petitioner and hence the punishment awarded to the petitioner is justifiable and writ petition is liable to be dismissed.

5. It appears that the respondents had no occasion to consider the above said position as stated by the learned counsel appearing for the petitioner and further, the criminal case was closed as mistake of fact. Therefore, the case of the petitioner is to be re-considered by the Authorities. Accordingly, the impugned order passed by the second respondent in proceedings dated 22.04.2017 is quashed and the matter is remanded back to the respondents. Accordingly, the respondents are directed to re-consider the entire issue on merits and in accordance with law and pass appropriate orders as expeditiously as possible. Thus, the Writ Petition stands allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Rep.by its Managing Director,
Kumbakonam.

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



2.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Trichy Region,
Trichy.

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+1 CC to M/s.D. SIVARAMAN, Advocate (SR-18330[F] dated 12/04/2022)

+1 CC to M/s.A. RAHUL, Advocate (SR-18339[F] dated 12/04/2022)

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11.04.2022

KMV (CO)

KB (22.04.2022) 3P 5C