



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

WEB COPY

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P.(MD)Nos. 9178, 9179, 9180, 9181, 9182, 9183, 9184, and 9168 of 2019
and
W.M.P(MD)Nos.7139, 7140, 7141, 7142, 7143, 7144, 7145 and 7136 of 2019

T.Rengaraj ... Petitioner in W.P(MD)No.9178 of 2019

.Vs.

1.The Secretary to Government,
Transport Department,
Fort St.George,
Chennai.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam)Limited,
New Railway Feeder Road,
Kumbakonam.

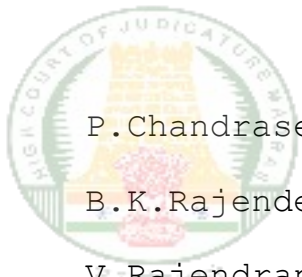
3.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai)Limited,
Bye Pass Road,
Madurai-10.

4.G.Paulraj,
Enquiry officer-cum-the then Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) ltd.,
Bye Pass Road,
Madurai.

... Respondents in W.P(MD)No.9178 of 2019

PRAYER in W.P(MD)No.9178 of 2019:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./ Kumba / Kootanmai / Sattam / 54 / 12 dated 01/07/2013 and quash the same and consequently to direct the respondents, by allowing the petitioner to retire from the services with effect from 31/07/2015.



P.Chandrasekaran

B.K.Rajenderan

V.Rajendran

M.Ravi

S.Manimuthu

A.Farook Ali

P.P.Rajendran

S.Chandraseker

... Petitioner in WP(MD) .
No.9179/ 2019

... Petitioner in WP(MD)
No.9180/ 2019

... Petitioner in WP(MD)
No.9181/ 2019

... Petitioner in WP(MD)
No.9182/ 2019

... Petitioner in WP(MD)
No.9183/ 2019

... Petitioner in WP(MD)
No.9184/ 2019

... Petitioners in WP(MD)
No.9168/ 2019

Vs

1. The Secretary to Government,
Transport Department ,
Fort.St.George, Chennai.

2. The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
New Railway Feeder Road,
Kumbakonam.

3. The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited, Bye Pass Road,
Madurai.

4. G.Paulraj,
Enquiry Officer Cum the then Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited, Bye Pass Road,
Madurai.

... Respondents in WP
(MD)No.9179/ 2019

1. The Secretary to Government,
Transport Department ,
Fort.St.George, Chennai.

2. The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
New Railway Feeder Road,
Kumbakonam.

3. G.Paulraj,
Enquiry Officer Cum the then Managing Director,
Tamil Nadu State Transport Corporation



(Madurai) Limited, Bye Pass Road,
Madurai.

... Respondents in WP(MD)

Nos.9180 to 9184& 9168/ 2019

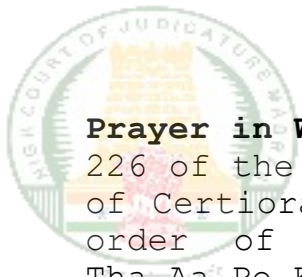
Prayer in WP(MD) . 9179/ 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./Kumba/Kootanmai/Sattam/54/12 dated 01/07/2013 and quash the same and consequently to direct the respondents, by allowing the petitioner to retire from the services with effect from 30/04/2016.

Prayer in WP(MD) . 9180/ 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./Kumba/Kootanmai/Sattam/54/12 dated 01/07/2013 and quash the same and consequently to direct the respondents, by allowing the petitioner to retire from the services with effect from 31/07/2015.

Prayer in WP(MD) . 9181/ 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./Kumba/Kootanmai/Sattam/54/12 dated 01/07/2013 and quash the same and consequently to direct the respondents, by allowing the petitioner to retire from the services with effect from 30/06/2016.

Prayer in WP(MD) . 9182/ 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./Kumba/Kootanmai/Sattam/54/12 dated 01/07/2013 and quash the same and consequently to direct the respondents, by allowing the petitioner to retire from the services with effect from 31/07/2015.

Prayer in WP(MD) . 9183/ 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./Kumba/Kootanmai/Sattam/54/12 dated 01/07/2013 and quash the same and consequently to direct the respondents, by allowing the petitioner to retire from the services with effect from 31/07/2015.



Prayer in WP(MD). 9184/ 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./Kumba/Kootanmai/Sattam/54/12 dated 01/07/2013 and quash the same and consequently to direct the respondents, by allowing the petitioner to retire from the services with effect from 31/07/2015.

Prayer in WP(MD). 9168/ 2019 :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the impugned proceedings of the 2nd respondent in Tha.Aa.Po.Ka./Kumba/Kootanmai/Sattam/54/12 dated 01.07.2013, and quash the same and consequently to direct the respondents by allowing the petitioners to retire from the services w.e.f. 31.07.2014 and for the 2nd petitioner 31.05.2015.

For Petitioner : Mr.K.S.Muthu
in all W.Ps'
For Respondent-1 : Mr.Veerakathiravan
in all W.Ps' Addl.Advocate General
assisted by
Mr.D.Sadiq Raja
Addl.Govt.Pleader
For Respondent-2 : Mr.P.Balasubramaniam
in all W.Ps'
For Respondent-3 : Mr.J.Senthil Kumaraiah
in all W.P(MD).Nos.9178 to 9179 of 2019
For Respondent-3 : No appearance
in all W.P(MD).Nos.9180 to 9184 &
9168/2019
For Respondent-4 : No Appearance
in WP(MD).Nos.9178 and 9179 of 2019

COMMON ORDER

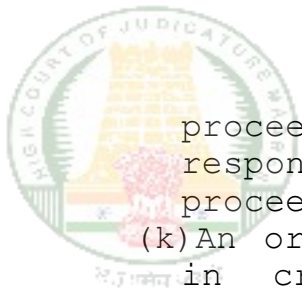
These writ petitions are filed challenging the charge memorandum issued on 01.07.2003. The charges are relating to the falsification of records and for irregular expenditure. Admittedly, all the writ petitioners have attained the age of superannuation and they were not allowed to retire from service.

2. It is brought to the notice of this Court that the enquiry proceedings are already completed and the disciplinary authorities have to pass final orders and there is no bar to proceed with the simultaneous proceedings. The ground raised by the petitioners are that parallel proceedings are impermissible. Thus, this Court has to consider whether such simultaneous proceedings are permissible or not. With reference to the grounds raised by the petitioner regarding the simultaneous proceedings, this Court has considered



the issue and the following principles are summarised.

- (a) It is a settled law that criminal case and the departmental disciplinary proceedings may be initiated simultaneously as the case may be;
- (b) an order of suspension, if required, may be issued in the prescribed format as per the rules;
- (c) if the records and evidences are available with the disciplinary authority, then without any loss of time, charge memorandum shall be issued and the disciplinary proceedings may go on;
- (d) The question to be considered is whether simultaneous proceedings may go on or not?;
- (e) The departmental domestic enquiry and the criminal trial shall proceed simultaneously and the decision in the criminal case would not materially affect the outcome of the domestic enquiry;
- (f) The nature of both proceedings and the test applied to reach final conclusion in the matter are entirely different.
- (g) If the case involves complicated questions of fact and law and the disciplinary authority is not in possession of the required materials for the purpose of conducting enquiry, then administrative decision may be taken to keep the departmental proceedings in abeyance. till the disposal of the criminal case. However, the advisability and desirability has to be determined considering the facts of each case by the authority concerned. Therefore, it would be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible.
- (h) There is no legal bar for both proceedings to go on simultaneously.
- (i) Acquittal by a criminal Court would not debar an employer from exercising power in accordance with service rules and regulations in force. The two proceedings, criminal and departmental are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on offender, the purpose of departmental enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with service rules.
- (j) In the criminal case, the burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt', he cannot be convicted by a Court of law. In departmental enquiry, on the other hand penalty can be imposed on the delinquent officer on a finding recorded on the basis of 'preponderance of probability'. To convict a person under criminal law, high standard of proof is required. Even the benefit of doubt would be a benefit for the accused in a criminal case. However, no such strict proof is required in a departmental disciplinary



proceedings. Therefore, there is absolutely no bar for the respondents to continue the departmental disciplinary proceedings and conclude the same and pass final orders.

(k) An order of conviction if any passed in the criminal case or in criminal appeal, after disposal of the disciplinary proceedings, then if necessary the Head of the department or the Government may exercise the power of review as the case may be under the relevant rules.

(l) Order of acquittal if at all passed in the criminal case or in criminal appeal, the same would not affect the final orders already passed in the departmental disciplinary proceedings based on the domestic enquiry conducted, in view of the fact that acquittal in a criminal case cannot be a ground for seeking exoneration from the departmental disciplinary proceedings.

(m) If the criminal case was registered under the Prevention of Corruption Act, 1988 and if the original records are seized by the investigating agency, then the disciplinary authority may obtain the true copies of the documents and proceed with the departmental disciplinary proceedings.

(n) As far as the departmental corruption allegations are concerned, it is not necessary that the disciplinary authority should wait for the final disposal of the criminal case registered under the Prevention of Corruption Act, 1988.

3. In view of the fact that the petitioners have already attained the age of superannuation and the enquiry proceedings have already been completed, the question of quashing the chargememo would not arise at this point of time and therefore, the respondents are directed to conclude the proceedings in all respects and pass final orders, respectively.

4. With these observations, all the writ petitions are dismissed. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
Transport Department,
Fort St.George, Chennai.

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



2.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
New Railway Feeder Road, Kumbakonam.

3.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye Pass Road, Madurai-10.

+1 CC to M/s.SPL GP (SR-6483[F],
6484, 6485,, 6486,, 6488, 6489,, 6490, 6501 dated 16/02/2022)

+1CC to Mr.P.Balasubramaniam, Advocate, SR.No. 6253 dated 15.02.2022

W.P. (MD) Nos. 9178, 9179, 9180,
9181, 9182, 9183, 9184,
and 9168 of 2019
15.02.2022

KS (CO)
KB (24.02.2022) 7P 6C