



W.P.No.7969 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.7969 of 2015

T.K.Ravi

.... Petitioner

VS

1. The Presiding Officer,
Labour Court,
Salem - 7.

2. The Management,
Tamilnadu State Transport Corporation
(Kovai) Ltd., rep. by its Managing Director,
(Erode Division),
Chennimalai Road,
Erode.

.... Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the award dated 18.09.2014 made in I.D.No.11 of 2008 passed by the 1st respondent, quash the same, consequently direct the 2nd respondent to reinstate the petitioner with continuity of service, backwages and other attendant benefits by considering G.O.(D) No.32, dated 20.02.2014 issued by the Department of Cooperative, Food and Consumer Protection.



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For Petitioner : Mr.N.Manokaran
For respondents : R1-Court
Mr.M.Muralivinoth for R2

ORDER

This writ petition has been filed challenging the award dated 18.09.2014 made in I.D.No.11 of 2008 passed by the 1st respondent and consequently, direct the 2nd respondent to reinstate the petitioner with continuity of service, backwages and other attendant benefits, by considering G.O.(D) No.32, dated 20.02.2014 issued by the Department of Cooperative, Food and Consumer Protection.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent.

3. The case of the petitioner is that he joined the service of the 2nd respondent Transport Corporation as apprentice on 20.09.1985 and was appointed as Junior Assistant on 06.06.1987 and he was made permanent on 23.09.1988. On 17.06.1989, a case was registered against the petitioner for the offence under sections 302, 498-A and 306 IPC r/w Section 4 of the Dowry Prohibition Act alleging that he was responsible for the death of his wife and was arrested on 19.06.2989 and remanded to judicial custody. Thereafter, the



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case was taken on file in S.C.No.4 of 1991 before the Principal sessions Court, Erode and after trial, he was sentenced to undergo 7 years rigorous imprisonment by judgment dated 10.04.1991. Against which, the petitioner filed appeal in C.A.No.327 of 1991 and the same was also dismissed by this Court. Thereafter, the petitioner completed the sentence imposed in S.C.No.4 of 1991. In the meanwhile, the 2nd respondent dismissed the petitioner from service on 10.06.1991. The said order was challenged in W.P.No.8954/1991 during the pendency of C.A.No.327 of 1991 and the same came to be dismissed on 11.02.1999. The petitioner raised industrial dispute in I.D.No.11 of 2008 on the file of Labour Court, Salem, against the order of dismissal. The said I.D. was also dismissed. Hence, this writ petition with the aforesaid relief.

4. Learned counsel for the petitioner would submit that the offence for which he was convicted did not relate to office matter as it was a case of death of his wife. The said offence has not been committed in the course of employment or at the place of employment or in connection with employment. Learned counsel would further submit that Article 311(2) of the Constitution of India provides that a person holding a civil post cannot be dismissed or removed or reduced in rank without holding the disciplinary proceedings and without giving reasonable opportunity of hearing and no employee can be



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dismissed or removed from service without observing the rules of natural justice. But the respondents have mechanically and blindly applied Clause 16 (x) of the Standing Order and dismissed the petitioner from service. In support of his contention, learned counsel also relied on the decision of this Court made in W.P.No.6833 of 2006 dated 18.11.2010.

5. On the contrary, learned counsel for the 2nd respondent would contend that the petitioner was convicted for the offence under section 302 IPC and sentenced to undergo 7 years rigorous imprisonment and he has also undergone the punishment in the criminal case. Therefore, the petitioner is not entitled for reinstatement in service or for grant of any other benefits.

6. This Court, considered the submissions made on either side and perused the materials available on record.

7. The admitted facts herein are that the petitioner was charged for the offences under sections 302, 498-A and 306 IPC r/w Section 4 of the Dowry Prohibition Act for the death of his wife and after fullfledged trial, he was convicted and sentenced to undergo 7 years rigorous imprisonment in S.C.No.4 of 1991 by the Principal Sessions Court, Erode. The appeal filed by him against



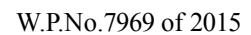
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the same before this Court in C.A.No.327 of 1991 was also dismissed. The petitioner was dismissed from service on 10.06.1991. The contention of the learned counsel for the petitioner that no reasonable opportunity of hearing was given to the petitioner before passing the order of dismissal, cannot be countenanced in law. Article 311(2) provides that the enquiry shall not be necessary where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge. In other words, a civil servant convicted on a criminal charge is liable to be dismissed without any further proceeding under Article 311(2).

8. Moreover, the decision relied on by the learned counsel for the petitioner made in W.P.No.6833 of 2006 dated 18.11.2010 is not applicable to the present facts and circumstances of the case. In that case, the petitioner has put in 33 years of service and the order of dismissal was also not set aside but the petitioner was directed to make fresh representation before the Government for reconsideration. Here is the case, where the petitioner has not even put more than 4 years of service. The said decision of this Court is not applicable to the present case.

9. Further, the doctrine of principle of natural justice has no application



10. In view of the above reasons, this Writ Petition stands dismissed. No

Index:Yes/No
Speaking/Non-speaking order
vsi

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<https://www.mhc.tn.gov.in/judis>



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