



W.P(MD)No.6498 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6498 of 2023

and

W.M.P.(MD)No.6139 of 2023

Sasikumar

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation Kumbakonam Ltd.,
Trichy Zone,
Trichy.

2.The General Manager,
Tamil Nadu State Transport Corporation Kumbakonam Ltd.,
Trichy Zone,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records related to the impugned order on the file of the first respondent in his proceedings த.அ.போ.க/குட்ப/திருச்சி/டி2/2386/2010 dated 14.04.2015 and to quash the same.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.K.Jagadeesbalan
Standing Counsel



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ORDER

Heard the learned counsel on either side.

2. The petitioner is working as driver in the respondent corporation. On 15.04.2010, when he was driving the bus in Trichy-Dindigul road, it was involved in an accident with a two wheeler. Three persons were injured. One of them died while being taken to hospital. In this regard, Crime No.228 of 2010 was registered on the file of the Manapparai Police Station. The stand of the petitioner is that the criminal case was closed and it was also noticed by the jurisdictional police that the rider of the two wheeler as well as the pillion rider were in an intoxicated condition. However, according to the petitioner, without taking note of the relevant facts, disciplinary action was initiated. The enquiry officer held that the charge framed against the petitioner was proved. The disciplinary authority passed an order imposing the punishment of stoppage of increment for a period of five years with cumulative effect. Aggrieved by the same, the petitioner filed an appeal before the appellate authority. The appellate authority reduced the period



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from five years to three years. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. His core argument is that criminal case registered against the petitioner was closed and this aspect of the matter was not taken note of by the management. According to him, even without examining the eye witness, the enquiry officer rendered a perverse finding that the charge memo against the petitioner was proved. He pressed for setting aside the impugned order and granting relief as prayed for.

5. The respondents have filed counter affidavit and the learned standing counsel took me through its contents. He pressed for dismissal of the writ petition.



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6. I carefully considered the rival contentions and went through the materials on record. The charge against the petitioner was that he committed the misconduct of driving the bus entrusted to him in a negligent manner. It is true that the criminal case registered against the petitioner did not culminate in prosecution. Of-course, in the affidavit filed in support of the writ petition, the petitioner claims that the riders of the two wheeler were in an intoxicated condition. But the petitioner himself would concede that no such final report was filed by the police. On the other hand, on account of non-filing of final report upto 12.04.2014, the jurisdictional magistrate closed the case by invoking Section 468 of Cr.P.C.. Thus, there is no definite material in support of the petitioner's claim. Be that as it may, the fact remains that as many as three M.C.O.Ps (M.C.O.P.Nos.1458, 1551 & 1543 of 2010 on the file of MACT Trichy) were filed. It has been categorically stated in the counter affidavit that award to the tune of Rs.9,64,200/- was ordered to be paid. The tribunal had rendered a finding that the bus was driven by the petitioner in negligent and reckless manner. While there is no positive material in favour of the petitioner, as far as the criminal case is concerned, there is a definite material against the petitioner in M.C.O.P



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claims lodged against the corporation. In the departmental proceedings also, the materials were placed. On the side of the Management, One Jesuraj was examined as witness. As many as eight documents were marked. The petitioner also examined himself as witness. He marked two documents on his side. The enquiry officer had considered the entire material on record and thereafter gave a finding against the petitioner. The finding of the enquiry officer is in consonance with the finding of the tribunal. The impugned order was passed as early as on 14.04.2015. Challenge has been mounted after a gap of 7 ½ years. There is no explanation for the delay. This Court will not be justified in entertaining the writ petition after a lapse of an unreasonable period. It is for these twin reasons, I decline to interfere.

7. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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