



W.P.No.2988 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.2988 of 2021

N.S.Premnath

...

Petitioner

/vs/

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building, Park Town,
Chennai – 600 003.
2. The Zonal Officer,
Greater Chennai Corporation,
Zone – X,
No.117, Jawaharlal Nehru Street,
Kodambakkam,
Chennai – 600 024.
3. Vennila

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the first respondent to consider the petitioner's representation dated 30.11.2020 and initiate Departmental Proceeding against the third respondent within a stipulated period.

For Petitioner ... Mr.M.K.Bhoopathy Rajan



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For Respondents ... Ms.E.Abinayalakshana
for Mr.E.C.Ramesh for R1 to R3

ORDER

Heard Mr.M.K.Bhoopathy Rajan, the learned counsel for the petitioner, Ms.E.Abinayalakshana, the learned counsel for R1 to R3.

2. The petitioner has filed this writ petition seeking writ of mandamus directing the first respondent to consider his representation and to initiate disciplinary action against the third respondent who is an employee under the first respondent.

3. On 11.11.2020 at about 10.45 p.m., while the petitioner was riding his two wheeler near Munusamy Salai, fell into a pit which had no warning signal and due to which the petitioner suffered multiple injuries. The petitioner became unconscious and he was immediately taken to a nearby hospital where he was given treatment. Since the third respondent is the appropriate authority to maintain the said area where the accident occurred, the petitioner has given a complaint to the first respondent to initiate disciplinary action against the third respondent. Since the same was not



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considered, the present writ petition has been filed.

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4. The “employer – employee” relationship is only between the first respondent and the third respondent. It is a matter of concern that the public roads are not maintained properly and that causes great inconvenience to the public.

5. The second respondent tried to shift the blame to TANGEDCO which had carried out certain emergency cable repairs on 10.11.2020 by getting permission from the third respondent. It is stated that TANGEDCO did not follow the standing orders and failed to take precautionary measures while digging the roads and that is the reason for all these unfortunate accidents. It is further submitted that the Corporation itself has filed an online police complaint against the TANGEDCO for not providing proper safety measures at the work site.

6. In the opinion of the respondents 1 and 2, the responsibility lies with TANGEDCO and the third respondent cannot be held liable. So the



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petitioners representation was considered and reply was sent to him on 05.03.2020. But the learned counsel for the petitioner submitted that he did not receive any reply from the corporation as claimed by the second respondent.

7. As a person who had suffered injury due to negligence on the part of either the Corporation or by TANGEDCO, the petitioner's remedy is to claim damages by fixing liability on the concerned. When an employer has taken a decision after appreciating the materials and come to a conclusion that there is no fault on his employee, a third party like the petitioner cannot compel the authorities to initiate any disciplinary action against the third respondent.

8. In view of the above stated reasons the writ petition itself is not maintainable and the same is liable to be dismissed. The petitioner's right to seek remedy before appropriate forum is not deprived provided if the claim of the petitioner is well within the period of limitation.

9. In the result, this Writ Petition is dismissed. No costs.



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Index: Yes
Speaking order
Neutral Citation Case: Yes / No
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