



W.P.(MD)No.8951 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.8951 of 2024

and

W.M.P.(MD).No.8146 of 2024

P.Murugaprabhu

... Petitioner

Vs.

1. The Principal Secretary,
Tamil Nadu Transport Department,
Fort St.George, Chennai.
- 2.The General Manager,
Tamil Nadu Transport Corporation,
Trichy By-Pass Road,
Dindigul District.
- 3.The Managing Director,
Head Branch,
Tamil Nadu Transport Corporation,
Tirumangalam By-Pass Road,
Madurai-625 010.
- 4.The Branch Manager,
Tamil Nadu Transport Corporation,
Lower Camp Branch,
Lower Camp, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire record



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pertaining to the impugned order passed by the second respondent in திண்டு : தொ : தா : பி : WP/1039/2024 dated 27.02.2024 and quash the same as illegal and consequently direct the second respondent to allot duty to the petitioner by considering the suspension of sentence in CrI.M.P.No.4542 of 2023 dated 18.12.2023 till the disposal of criminal appeal in CrI.A.No.139 of 2023 on the file of the learned Principal District and Sessions Judge, Dindigul.

For Petitioner : Mr.S.M.Ramasiva

For R-1 : Mr.M.Lingadurai,
Special Government Pleader

For R-2 & R-4 : Mr.K.Ramaiah

ORDER

By consent of both the parties, this Writ Petition is taken up for final disposal.

2. Heard Mr.S.M.Ramasiva, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader appearing for the first respondent and Mr.K.Ramaiah, learned counsel appearing for the second and fourth respondents.

3. The petitioner has filed this Writ Petition challenging the impugned order passed by the second respondent in திண்டு : தொ : தா : பி : WP/1039/2024 dated 27.02.2024 and consequently direct the second respondent



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to allot duty to the petitioner by considering the suspension of sentence in Crl.M.P.No.4542 of 2023 dated 18.12.2023 till the disposal of criminal appeal in Crl.A.No.139 of 2023 on the file of the learned Principal District and Sessions Judge, Dindigul.

4. The learned counsel appearing for the petitioner would submit that the petitioner was involved in a criminal case and he faced trial in C.C.No. 130 of 2013 before the learned Judicial Magistrate, Nilakottai. At the conclusion of the trial, the trial Court found the accused guilty and convicted him to undergo one year Simple Imprisonment and imposed a fine of Rs.3000/-, in default, to undergo simple imprisonment for a period of three months, through its judgment, dated 24.11.2023. The petitioner has preferred an appeal challenging the above judgment in C.A.No.139 of 2023 before the Principal District and Sessions Court, Dindigul. The First Appellate Court had granted an order of suspension of sentence to the petitioner. Thereafter, the petitioner has given a representation to the fourth respondent to allow him to duty. However, by virtue of the impugned order dated 27.02.2024, the order has been passed stating that the petitioner cannot be given any work until the disposal of the case in C.A.No.139 of 2023.



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5. To be noted that the petitioner was continuing in service while the criminal case is pending in C.C.No.130 of 2013. Even the petitioner has got convicted and the sentence has been suspended in view of the appeal preferred by him. The appeal is nothing but the continuation of the criminal case which was ended in C.C.No.130 of 2013. Since the petitioner was not placed under suspension during the time when the criminal case was pending against him, the same status should be allowed to continue when the criminal appeal is pending under which the sentence imposed on the petitioner itself was suspended. The petitioner has not come under neither under suspension nor any other order by the authority. That will create a question mark about his service even if he gets a favorable order in the pending criminal appeal. However, the second respondent has passed the impugned order dated 27.02.2024 without considering the above facts, but simply stating that since the petitioner has been convicted in the Criminal Court and the appeal filed by him is pending.

6. The criminal case has been registered in the year 2012 and the case was pending against him from the year 2013. Except an unfortunate incident which had occurred in the year 2013, the petitioner has not involved in any other case. In fact the petitioner was allowed to continue in service



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considering the fact that his services are satisfactory. The petitioner has got every opportunity to get a favorable order in the appeal in view of the fact that he was not kept under suspension, when the criminal case itself was pending for trial against him.

7. In view of the aforesaid reasons, this Writ Petition is **allowed** and the impugned order passed by the second respondent in திண்டு : தொ : தா : ஸ்ரீ : WP/1039/2024 dated 27.02.2024 is set aside and the second respondent is directed to reinstate the petitioner forthwith by considering the period of suspension as duty along with all other services and attendant benefits attached to the same. No costs. Consequently, connected miscellaneous petition is closed.

12.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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R.N.MANJULA, J.

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