
(2011) 07 MAD CK 0195

In the Madras High Court

Case No : Writ Petition No. 698 of 2011 and M.P. No. 1 of 2011

S. Karuppuchamy

APPELLANT

Vs

The Special Commissioner and Transport Commissioner and
The Regional Transport Officer

RESPONDENT

Date of Decision : 29-07-2011

Acts Referred:

Citation : (2011) 07 MAD CK 0195

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : Muthukumaraswamy for L. Murali Krishnan, for the Appellant; S. Gunasekaran, Government Advocate for M.C. Swamy, Special Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—The Petitioner was working as Motor Vehicle Inspector Grade-I in Tirunelveli District. While so, he was suspended from service on 19.12.2003 as a criminal case was registered and the same was pending against him. Ultimately, on 11.12.2007, the Petitioner was convicted by the Chief Judicial Magistrate, Nagercoil in S.C. No. 1 of 2005 and sentenced him to undergo 5 years imprisonment along with fine of Rs. 10,000/- for each offence.

2. Based on the conviction, the Petitioner was dismissed from service by an order dated 29.05.2008 passed by the first Respondent.

3. The Petitioner has filed a Criminal Appeal in C.A. No. 655 of 2007 before this Court, against the order of conviction passed by the Chief Judicial Magistrate, Nagercoil.

4. In the meantime, before the disposal of the Criminal Appeal in C.A. No. 655 of 2007, the Petitioner filed a writ petition in W.P. No. 5916 of 2008 against the order dated 29.05.2008, passed by the first Respondent, dismissing him from service.

5. This Court, by an order dated 14.09.2010, dismissed the writ petition in W.P. No. 5916 of 2008 holding that this Court could not interfere with the punishment, until the Petitioner comes out clean from the criminal case.

6. This Court, by an order dated 22.10.2010, allowed the Criminal Appeal in C.A. No. 665 of 2007 by setting aside the order of conviction and sentence passed by the Special Judge, Chief Judicial Magistrate, Nagercoil.

7. In these circumstances, the Petitioner made representations dated 18.11.2010 and 22.11.2010 respectively, requesting the first Respondent to reinstate him, based on the orders passed in C.A. No. 665 of 2007 and W.P. No. 5916 of 2006. Since No. order was passed, the Petitioner has filed the present writ petition seeking for a direction to the first Respondent to reinstate him as Motor Vehicle Inspector Grade-I along with all attendant benefits including backwages and seniority.

8. When the matter came up on 15.06.2011, it was represented by the learned Counsel for the Respondents that they sought legal opinion as to the feasibility of filing appeal against the order of this Court in Criminal Appeal and the matter was posted after four weeks. Again the matter was taken up for hearing on 21.07.2011 and they were not able to state as to whether any appeal was filed against the order passed in Criminal Appeal. Even today, they are not able to state the same.

9. In my view, even if an appeal is filed, they cannot rely on the same for denying reinstatement, unless they obtained stay of the order passed in Criminal Appeal. Moreover, the dismissal order was passed against the Petitioner based on the conviction and once the conviction is set aside, he is entitled to reinstatement, with consequential benefits as per G.O.Ms. No. 232, Personnel and Administrative Reforms Department dated 07.06.1996 and the judgment of the Apex Court in Chairman Food Corporation of India and Ors. (vs) Sudarsandas reported in 2007 (14) SCC 766. In these circumstances, the Petitioner is entitled to succeed and accordingly, a direction is issued to the first Respondent to reinstate the Petitioner as Motor Vehicle Inspector Grade-I with backwages and other attendant benefits and original seniority within eight weeks from today.

10. The writ petition is disposed of in the above terms. No. costs. Consequently, connected miscellaneous petition is closed.