

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2022

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21625 of 2019
and W.M.P.No.20848 of 2019

V.Annadurai .. Petitioner

Vs.

1. The Additional Chief Secretary to Government
Transport Department
Secretariat, Chennai - 600 009.
2. M/s. Tamil Nadu State Transport
Corporation Employees Pension Fund Trust
Rep. by its Administrator
No.2, Pallavan Salai, Chennai - 600 002.
3. M/s. Tamil Nadu State Transport Corporation (Kum) Ltd.
Rep. by its General Manager
Railway Station New Road, Kumbakonam.
4. The Director of Vigilance and Anti-Corruption Department
Directorate of Vigilance and Anti-Corruption
Collectors Nagar, Alandur, Chennai.

[R4 *suo motu* impleaded vide order dated
31.10.2022 in W.P.No.21625 of 2019] .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, to call for the records of the third respondent in proceedings No.த.அ.பொ/15/KUM/15/2000 dated 24.01.2000 and 01.04.2003 and quash the same and consequently direct the respondents to settle the terminal benefits by fixing annual increments, review, weightage and settlement benefits with 6% interest.

For the Petitioner : Mr.D.Soundar Raj

For the Respondents : Mr.R.P.Murugan Raja
Government Advocate
for respondent 1

Mr.S.Rajesh
Government Advocate
for respondent 4

ORDER

The charge memo issued to the writ petitioner in proceedings dated 24.01.2000 and the second show cause notice issued on 01.04.2003 are under challenge in the present writ petition.

2. The petitioner was appointed as Conductor on 06.11.1984. He was promoted to the post of Selection Grade Conductor and thereafter, as Selection Grade Senior Driver. He was allowed to retire from service on 31.05.2018 without any prejudice to the pendency of the criminal case against him. The criminal case was registered in Crime No.25 of 2003 on 17.10.2003, filed under the Prevention of Corruption Act. Subsequently, the criminal case was numbered as C.C (Spl) No.1 of 2009 on the file of the Chief Judicial Magistrate, Thanjavur at Kumbakonam and at present, it was transferred to the Principal District and Sessions Judge, Thanjavur and numbered as Special Case No.1 of 2020.

3. The grievances of the writ petitioner is that, he was allowed to retire from service without prejudice to the criminal proceedings, but, the criminal case is pending for the past about 19 years and even charges have not been framed against the writ petitioner and the other accused persons. The Departmental Disciplinary Proceedings, initially were proceeded with

and an enquiry was conducted by the Enquiry Officer. Based on the enquiry report, the second show cause notice was issued and the Disciplinary Authority has not passed any final orders.

4. Learned counsel for the petitioner states that none of the Terminal and Pensionary Benefits were settled and the petitioner retired in the year 2018 and for the past four years, no action has been taken by the Authorities even to dispose of the Departmental Disciplinary Proceedings, which was almost concluded.

5. Considering that the criminal case was registered in the year 2003 and there is an enormous delay on the part of the police authorities, this Court directed the Registry to get a report from the learned Principal District Judge, Thanjavur, who, in turn, submitted a report in D.No. /2022/Sessions dated 21.11.2022. The report reads as under:

“ I humbly submit that, the Spl.Case No.58 of 2014 on the file of Chief Judicial Magistrate Court, Thanjavur at Kumbakonam for the offences u/s.120(B)

420 r/w 109 IPC and 7,8,9,13(1)(a)(d) of PC Act 1988 has been received by this Court on 13.03.2020 and taken on file as Spl.Case No.1 of 2020 on the file of this Court on 18.03.2020.

I further humbly submit that, there are 58 accused in this case and NBW were pending as against A23, A55, A56 on the date of receipt of this case in this Court. I further submit that no progress could be made for the period from March 2020 to 02.11.2020 due to Covid 19 Lock Down.

I humbly submit that for the period from 02.11.2020 to 01.03.2021 it was reported that A14, 15, 17, 19, 23, 36 and A53 were died and after receiving their death certificates charges against them were ordered to be abated.

I further submit that in the subsequent hearing, furnishing of copies of documents u/s.207 Cr.P.C to all the accused could not be made as some of the accused were absent and NBW were issued and recall was ordered then and there and further the case against

A31 was ordered to be split up, in view of the long pendency of NBW issued against him on 23.12.2021.

I humbly submit that on 31.03.2022 copies of documents u/s.207 Cr.P.C. were furnished to all the accused. Thereafter, the case is posted for the framing of charges on 11.04.2022, 30.04.2022, 07.06.2022, 17.06.2022, 20.06.2022, 22.07.2022, 06.08.2022, 03.09.2022, 14.10.2022 and 04.11.2022 and in the above mentioned dates, charges against the accused could not be framed, since all the accused were not present in those days and it was reported that A29 and A49 were reported died. Hence the charges against them were ordered to be abated after filing their death certificates.

Therefore I humbly submit that due to Covid 19 Pandemic Lock Down and frequent absence of some of the accused then and there and issuance and recall of NBWs and reporting of the death of the some of the accused, stall the further proceedings in this case.

Now the case is posted to 15.12.2022 for framing

of charges.

However, I submit that I shall endeavour all the effective steps to see the case to reach its finality.”

6. Learned Government Advocate appearing on behalf of the respondent made a submission that there is no delay on the part of the Vigilance and Anti-Corruption Department. They have submitted a final report long back and on account of the reason that some of the accused were absconding and some of the accused died, the trial was unable to be commenced and thus, there was no delay on the part of the Vigilance and Anti-Corruption Department. In this regard, the Superintendent of Police, North Range, Vigilance and Anti-Corruption has filed a status report stating that the cases are pending from the year 1983 onwards. The details regarding the pending cases as per the report are as under:

“4. It is submitted that the list of Districts with more than 50 pending trial cases is given below.

S.No	Name of the Districts	Name of the Courts	No. of PT cases
1.	Thiruvallur	CJM	55
2.	Cuddalore	CJM	117
3.	Thiruvannamalai	CJM	51
4.	Chengalpattu	CJM	60
5.	Pudukottai	CJM	51
6.	Thanjavur	CJM	92
7.	Virudhunagar	CJM	59
8.	Thoothukudi	CJM	67
9.	Nagarcoil	CJM	60
10.	Chennai	Special Court	128
11.	Coimbatore	Special Court	80
12.	Salem	Special Court	83
13.	Trichy	Special Court	112
14.	Madurai	Special Court	56

5. It is submitted that details of cases (Year Wise) pending before the Special Courts are furnished below.

S.No	Year	No. of PT cases
1.	1983-1990	7
2.	1991-2000	54
3.	2001-2010	421
4.	2011-2021	1153
Total		1635

7. Special Courts are exclusively constituted for trial of cases under

the Prevention of Corruption Act in each Districts. In the remaining Districts, the regular Courts are dealing with the corruption cases. As per the status report, nearly about 1635 corruption cases are pending across the State of Tamil Nadu and those cases were registered from the year 1983 onwards.

8. It is an unfortunate circumstance, where, the corruption cases are not dealt with by the Competent Authorities within a reasonable period of time. Blame game by the Police Authorities and the Courts would not resolve the issue. Practical and pragmatic approach is required for the purpose of solving these problems and if the corruption cases are kept pending for years together, then, there is no possibility of controlling the corrupt practices among the Public Servants. In the event of keeping the corruption cases pending for such a long period, the offenders will get an encouragement that they can escape from the clutches of proceedings.

9. One of the complaints made by the Police Department is that the

trials are not conducted on a day-to-day basis and they find it difficult to produce witnesses on account of the gap between the hearing dates. Once the trial commences, it must be continued without any long adjournments and it is to be concluded at the earliest possible. Keeping the trial pending for a long period would also end with dilution of proceedings and therefore, the corruption cases are to be dealt with on priority basis both by the Special Courts and regular Courts.

10. As per the status report, large number of cases i.e., nearly about 1153 cases, are pending from the year 2011 to 2021. If trial is allowed to go on in this manner, this Court is afraid that all these cases will end in vain without any fruitful results. The very purpose and object of the Prevention of Corruption Act will be defeated. Large scale corrupt activities are in the public domain. Public Servants are of the opinion that they can escape from the clutches of the Prevention of Corruption Act since the proceedings are kept pending for years together without any progress.

11. In the present case, learned counsel for the petitioner states that many of the accused persons have already received all the Terminal and Pensionary Benefits, even during the pendency of the criminal trial. This being the factum, this Court is of the opinion that actions are to be initiated by the Competent Authorities of the Vigilance and Anti-Corruption Department and equally by the Courts in conducting the trial in a speedy manner.

12. Priority is to be given to the corruption cases, which are all pending for long years. The Judicial Officers are bound to proceed with the trial without granting any unnecessary adjournments in corruption cases. Adjournments are to be granted only on genuine grounds and it could not be granted in a routine manner. Adjournment is an exception and proceeding with the case is the Rule. Whenever an adjournment is sought for by either of the parties, then reasons must be recorded for the grant of adjournments. Contrarily, adjournments are granted in a mechanical manner, which can never be appreciated and therefore, the Courts have to be cautious, while

granting adjournments whenever such requests are made on behalf of the parties. This Court has passed a judgment on adjournments in C.R.P (PD) No.3429 of 2018 dated 08.11.2018, where, the ill consequences were elaborately considered based on the judgments of the Hon'ble Supreme Court and with reference to the Civil Procedure Code.

13. There is a current trend in the Courts that the parties are seeking adjournments to achieve their goal in an indirect manner. Even for the purpose of bench hunting, such adjournments are sought for. On some occasions, in order to harass other parties, adjournments are sought for. At the outset, various trickery methods are adopted by the parties to get adjournments in order to evade the proceedings or to prolong the litigation. Such ideas or intention of the parties, at no circumstances, be encouraged by the Courts. The Courts are bound to assess the genuinity of the reasons pleaded for seeking adjournments and only if it is found genuine, then such reasons must be recorded and then alone adjournments are to be granted.

14. Few legal brains and ill-natured litigants are attempting to adopt such delay tactics by finding out certain loopholes in the Judicial System. The Courts could not encourage such adjournments. Substantial justice to genuine litigants are denied on account of grant of such frequent and unnecessary adjournments on the insistence of either of the parties to the case.

15. In the present case, the criminal case is pending for the past about 22 years and during the pendency of the criminal case, Terminal and Pensionary Benefits were settled in favour of few employees. Some accused have already died and even now, charges have not been framed. Learned Principal District and Sessions Judge listed the matter on 15.12.2022 for framing charges. The Officer who is present before this Court informed that on that day, all the accused will be present before the Sessions Court, Thanjavur. Thus, the charges are to be framed and the trial is to be conducted as expeditiously as possible.

16. In respect of the relief as such sought for in the present writ petition, the petitioner was allowed to retire from service without prejudice to the criminal case. Thus, the eligible benefits, as per the Rules, are to be settled in favour of the petitioner during the pendency of the criminal proceedings. Balance retirement benefits are to be settled after the disposal of the criminal case and subject to the judgment in the criminal case.

17. The learned counsel for the petitioner made a submission that the Departmental Disciplinary Proceedings were concluded and the second show cause notice was issued. Thus, the respondents 1 to 3 are directed to pass final orders in the Departmental Disciplinary Proceedings as expeditiously as possible, within a period of four weeks from the date of receipt of a copy of this order, by following the procedure as contemplated. It is made clear that the Departmental Disciplinary Proceedings are independent and therefore, there is no impediment to pass final orders even during the pendency of the criminal case.

18. With these above directions, the writ petition is disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

21.11.2022

Index : Yes/No
drm

To

1. The Additional Chief Secretary to Government
Transport Department
Secretariat, Chennai - 600 009.
2. The Administrator
M/s. Tamil Nadu State Transport
Corporation Employees Pension Fund Trust
No.2, Pallavan Salai, Chennai - 600 002.
3. The General Manager
M/s. Tamil Nadu State Transport Corporation (Kum) Ltd.
Railway Station New Road, Kumbakonam.
4. The Director of Vigilance and Anti-Corruption Department
Directorate of Vigilance and Anti-Corruption
Collectors Nagar, Alandur, Chennai.
5. The Principal District and Sessions Judge
Thanjavur.

W.P.No.21625 of 2019

S.M.SUBRAMANIAM,J.

(drm)

W.P.No.21625 of 2019
and W.M.P.No.20848 of 2019

21.11.2022