

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25560 of 2015

And

M.P.No.1 of 2015

1.R.Manimaran
2.K.Kandasamy
3.V.Vivekanandan
4.S.Madhiyazhagan
5.A.Krishnaraj
6.G.Selvam
7.K.Mariyappan
8.A.siva
9.K.Kumar
10.M.Madu
11.Arjunan
12.M.Kumaresan
13.P.Perumal
14.M.Sankaran

...Petitioner

Vs.

The Managing Director
Tamil Nadu State Transport
Corporation (Salem Division) Ltd.,
No.12, Ramakrishna Road,
Salem 636 007.

...Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to pay the arrears of backwages to the petitioners as requested by the petitioners in petitioners representation dated 29.4.2015 as per the order of this Honourable court in W.P.No.12048 of 2006 dated 28.7.2010 confirmed in W.A.No.420 of 2011 dated 6.8.2012 by fixing their basic pay on par with the basic pay of Mrs.K.Vasuki (MCR 139 Canteen Helper) with effect from 1.11.2009 and award costs.

For Petitioner : Mr.S.Ayyathurai

For Respondents : Mr.P.Paramasivadoss

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioners would state that the petitioners and other persons similarly placed were working in the canteens lent by the respondent Corporation in Attur, Johnsonpet, Rasipuram, Erumapalayam, Namakkal, Thiruchengode, Edappadi and Mettur and they are putting services ranging from two to seven years. However, inspite of their continuous service, the petitioners were paid monthly wages at the rate of Rs.4/- to Rs.6/- per day and according to them, the Management has adopted un-fair labour practice.

3.It is further stated by the petitioners that though settlement came into being on 28.09.1989, their services have not been regularised and on 01.03.1990, they have been terminated from service. The petitioners alleging that the respondent Management did not comply with the provisions of Section 25-F and 25-N of the Industrial Disputes Act, 1947 sent letters to the respondent Management and since there was no reply, complained the Union President who requested for the reinstatement of the petitioners and since, he was told by the respondent that he acted according to the Government of Tamil Nadu, the Union President met Secretary to the Government, Transport Department and complained about the unfair, illegal and unjust action of the Management and according to him, the Secretary has said that appropriate action would be taken and since their response did not invoke any kind of response, they filed W.P.No.13266 of 1990 praying for appropriate direction directing the respondent to reinstate them in service with continuity of service and backwages and it was dismissed on 20.01.1998 by directing them to seek remedy under the Industrial Disputes Act and it was taken cognizance by the jurisdictional Labour Court and common award was passed holding that the petitioners are entitled to compensation.

4.The petitioners aggrieved by the denial of the relief of continuity of services has filed W.P.No.12048 of 2006 and vide order dated 28.07.2010, this Court has disposed of the writ petition with the following direction:

"i.The respondent is directed to give reinstatement to the petitioners, with continuity of service, however without backwages from the date of disengagement, within a period of eight weeks from the date of receipt of a copy of this order.

ii.It is made clear that the petitioners are entitled to get backwages only from 30.10.2009.

iii.The compensation amount paid at the rate of Rs.25,000/- to each of the petitioners can be adjusted from the arrears of backwages payable from 30.10.2009.

iv.Consequently, connected W.V.M.P.No.8 of 2010 is closed.

v.No costs."

5.The respondent Management filed Writ Appeal No.420 of 2011 against the above said order and it was dismissed on 06.08.2012 and thereafter, the respondent Management ordered reinstatement with continuity of service and backwages and other benefits and insofar as the payment of salary is concerned, a promise was given that separate order would be ordered. However, no separate orders have been passed and in this regard, the petitioners submitted representations dated 06.11.2014, 03.04.2015 and 29.04.2015 and though the respondent Management has received and acknowledged the representations, has not chosen to pass any orders so far and hence, came forward to file this writ petition.

6.Heard the submissions of Mr.S.Ayyathurai, learned counsel appearing for the petitioner and Mr.P.Paramasivadoss, learned counsel who accepts notice on behalf of the respondent/ Management.

7.Though the petitioner prays for a larger relief, this Court in the light of the facts and circumstances, directs the respondent to consider and dispose of the petitioner's representations dated 06.11.2014, 03.04.2015 and 29.04.2015 on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

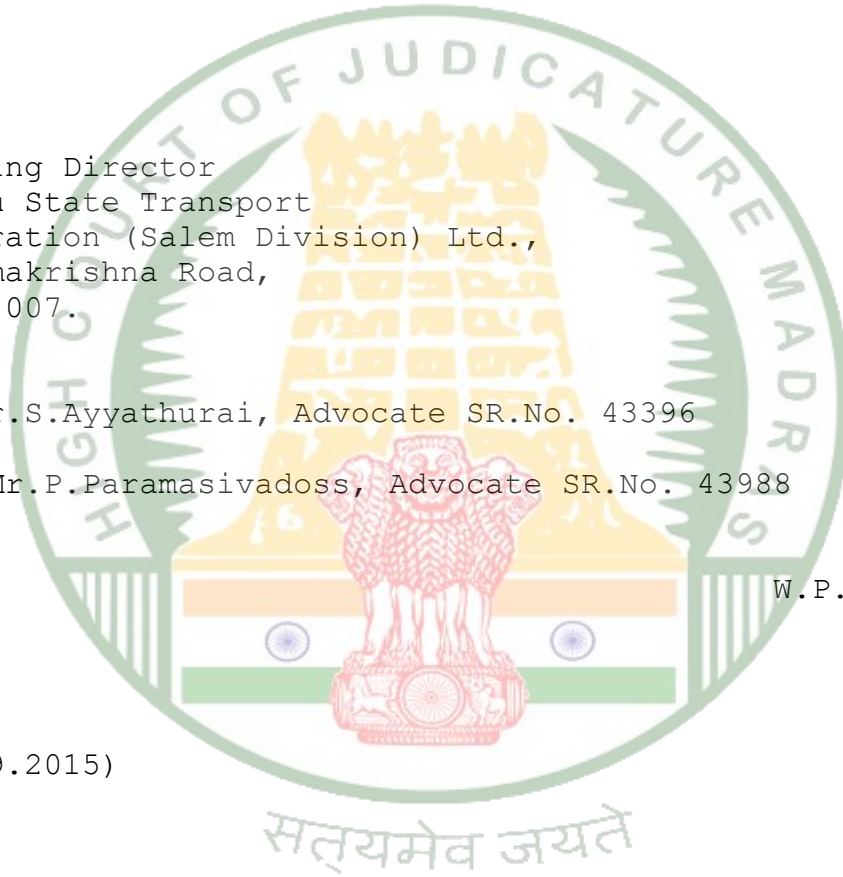
The Managing Director
Tamil Nadu State Transport
Corporation (Salem Division) Ltd.,
No.12, Ramakrishna Road,
Salem 636 007.

1 CC to Mr.S.Ayyathurai, Advocate SR.No. 43396

1 CC to Mr.P.Paramasivadoss, Advocate SR.No. 43988

W.P.No.25560 of 2015
And
M.P.No.1 of 2015

GJ (CO)
PSI (09.09.2015)



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