

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.11.2016

CORAM

**THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN**

Contempt Petition No.386 of 2016

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

Petitioners

Versus

Mr.R.Rangarajan
Managing Director,
Tamil Nadu State Transport
Corporation (Salem Division) Ltd.,
No.112, Ramakrishna Road,
Salem 636 007.

Respondent

Prayer: Contempt petition filed under Section 11 of the Contempt of Courts Act arising out of the order dated 6.8.2012 passed in W.A.No.420 of 2011.

For petitioners : Mr.S.Ayyathurai

For Respondent : Mr.P.Paramasivadoss

ORDER

Common order of the court was made by HULUVADI G.RAMESH, J.)

<https://hcservices.ecourts.gov.in/hcservices/> heard the learned counsel appearing for the parties for some time.

2. The contempt petition is filed aggrieved by the undertaking obtained by the Management from the employees to the effect that they convey their acceptance to forego 75% of the arrears, under the guise of a negotiation meeting, despite the judgment in the Writ Appeal, in their favour.

3. Learned counsel appearing for the workmen has contended that under threat and coercion of losing the job, such an undertaking was executed, and in reality, there is no willingness to give up 75% backwages when the judgment of the Division Bench of this court is in their favour. Accordingly, he sought to contend that the alleged undertaking is beyond imagination and not legally sustainable.

4. Per contra, it is the submission of the Transport Corporation that there is an undertaking given by the each of the employees giving acceptance to give up 75% backwages to continue in service and it was arrived at on their own by the workmen to avoid further litigation.

5. Be that as it may, the order passed by the Division Bench of this court is dated 6.8.2012, however, the contempt petition is shown to have been filed after three years. Therefore, the question of limitation also would come into picture and whether there is continuation of cause of action or fresh cause of action, it is a matter of interpretation and the facts remains that the undertaking said to have been given by the workmen is disputed. In the circumstances, the workmen is at liberty, once again, to agitate the issue before the Labour Court as the authenticity of the undertaking alleged to have

been given by the workmen is in question and if at all it is given under threat, then, it shall be gone into and a decision be rendered by the Labour Court and in such event, the Management is bound to pay the backwages. All the contentions of both Management and the workmen are left open to be raised before the Labour Court, in this regard. With the above observation, the contempt petition is closed.

ssk.

Sd/-

JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

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