

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2016

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.22839 of 2003
and
W.P.M.P.No.28234 of 2003

Tamil Nadu State Transport Corporation,
(Madurai Division -III) Ltd.,
rep. by its Managing Director,
Nesamony Nagar, Ranithottam,
Nagercoil - 629 001.

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Tirunelveli.
2. The Secretary,
Tamilaga Arasu Pokkuvarathu
Thozhilalar Sangam,
Nagercoil.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari., to call for records of the award, dated 14.02.2002, passed in I.D.No.490 of 1990 on the file of Additional Labour CXourt, Madurai, which was transferred and re-numbered as I.D.No.311/1992, on the file of the Labour Court, Tirunelveli, and to quash the same.

For Petitioner : Mr.V.R.Kamalanathan
Standing Counsel
for Transport Corporation
Respondent-1 : Labour Court
For respondent-2 : Mr.V.Ajay Khose

O R D E R

Heard Mr.V.R.Kamalanathan, the learned Standing Counsel appearing for the petitioner-State Transport Corporation and Mr.Ajay Khose, the learned counsel appearing for the second respondent-Union.

2. The challenge in the Writ Petition is to the award, dated 14.02.2002 passed in I.D.No.490 of 1990, on the file of the Additional Labour Court, Madurai, which was transferred and renumbered as I.D.No.311 of 1992, on the file of the Labour Court, Tirunelveli.

3. The petitioner is the Management, and the second respondent is the Union, and they shall be referred as such through this judgment and order.

4. The dispute raised by the Union was regarding the punishment of suspension imposed on 28 workmen, who had participated in the strike.

5. Now, the only issue, which requires to be considered in this Writ Petition is as to whether the finding recorded by the Labour Court on issue No.3, viz., the issue "Whether the participation of the aggrieved in the strike is legal or not?" is correct or not?

6. The Labour Court, taking into consideration all the evidence on record, found that the Union had issued statutory notice for conducting the strike on 30.12.1981 and 04.01.1981, which was evident from the documents placed by the Management. The Management produced Ex.M.1 Notice, wherein, it is seen that a request was made by the Conciliation Officer appointed by the Management to the Union, not to proceed with the strike. Further, Ex.M.2 notice was produced before the Labour Court, wherein, it is seen that a request was made by the Conciliation Officer to the workers representatives not to organize the strike on 19.01.1982, and the Labour Court, considering those two documents, arrived at the conclusion that the Union had issued statutory notice for the strike. So far as the conduct of the Management is concerned, while examining the case, the Labour Court recorded a finding that there is nothing on record, except Ex.M.2, to show that the Conciliation Officer initiated conciliation proceedings prior the date of strike, i.e., before 19.01.1982.

7. Thus, the Labour Court, after taking into consideration the factual aspects and also the evidence of Management side witness, who stated that the strike did not affect the functioning of the Corporation Buses, passed the award. Furthermore, the Labour Court noted that the strike is not a strike, expressing grievance against the Management, but, it is a call given by the Working Class at a National level to show their solidarity to their brethren all over India. Thus, the finding recorded by the Labour Court on Issue No.3, are legal and valid, and in the absence of any perversity or arbitrariness in the award passed by the Labour Court, this Court, while

exercising jurisdiction under Article 226 of the Constitution of India, is not inclined to interfere with the same.

8. In the result, the Writ Petition fails, and it is dismissed. No costs. Consequently, connected W.P.M.P. is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Presiding Officer,
Labour Court,
Tirunelveli.
2. The Secretary,
Tamilaga Arasu Pokkuvarathu
Thozhilalar Sangam,
Nagercoil.
3. The Section Officer,
VR Section,
High Court, Madras. [31/05/2016]

+ 1 cc to MR.V. AKamalanathan, Advocate SR.7414
+ 1 cc to Mr.V. Ajay Khose, Advocate SR.7314

Writ Petition No.22839 of 2003

CTK(CO)
EU 18.02.16

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