

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

AND

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Appeal No.1350 of 2016

and C.M.P.No.17371 of 2016

The Chief Executive,
Railway Employee's
Cooperative Credit Society Ltd.,
Ashok Vihar Complex,
Old Zoo Road, Chennai- 600 003. ... Appellant/Respondent No.3

Vs.

1. Railway Employees Cooperative
Society Staff Union (Reg.No.3432/CNI)
rep. by its Gen. Secretary,
R.C.Cyril Thiyagaraj, No.2/30,
Lettangs Road, Vepery, Chennai 600 007. ...1st Respondent/
Writ Petitions
2. The Labour Officer,
3rd Floor, Kuralagam,
Chennai 600 108.
3. State of Tamil Nadu, rep. by
Secretary, Department of Labour
and Employment, Fort St. George,
Chennai- 600 009. ...2nd and 3rd Respondent/
...1st and 2nd Respondents
4. The Southern Railway, rep. by
its General Manager, Central
Chennai, Poonamallee, Chennai.
5. Union of India, Ministry of Railways,
rep. by its Secretariat, Railway Bhavan,
New Delhi 110 001.

6. The Chairman,
Railway Board,
Rail Bhavan,
New Delhi 110 001.

..1th to 6th Respondent/
7th to 6th Respondents

(in pleaded & no motu as per order dt.19.10.2016 & 28.10.2016
respectively)

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by the learned single Judge in Writ Petition No.28498 of 2016, dated 20.10.2016. Writ Petition under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 2nd respondent to refer the Industrial Dispute dated 04.04.2016 Nos.Na.Ka.No.A/535/14, Na.Ka.No.A/778/14, Na.Ka.No.A/99/15 for adjudication immediately on receipt of the failure report from the 1st respondent and direct the 3rd respondent not to alter the service conditions of the workers connected with the dispute and more particularly the workers whose names are in the Annexure to the Affidavit to their prejudice in any manner including reversion or discontinuing or terminating the services in the guise of punishment etc until the adjudication of the Industrial Dispute Nos.Na.Ka.No.A/535/14, Na.Ka.No.A/778/14, Na.Ka.No.A/99/15 dated 04/04/2016 and passing of final award by the Labour Court or Industrial Tribunal.

For Appellant : Mr.R.Krishnamurthi, Sr. Counsel for
Mr.A.Jenasenan.

For Respondents : Ms.N.S.Tanvi, for R1.
Mr.P.S.Sivashanmugasundaram,
Spl.Govt.Pleader for R2 & R3.
Mr.D.Bhakthayachala Babu, for
Mr.V.G.Sureshkumar, for R4 to R6.

JUDGMENT

(Delivered by NOOTY.RAMAMOohana RAO,J)

This writ appeal is directed against the order passed on 20.10.2016, by the learned single Judge in Writ Petition No.28498 of 2016, impleading suo motu (1) the Union of India, Ministry of Railways and (2) the Chairman, Railway Board, as parties to the writ petition.

2. The controversy raised in the writ petition revolves around the apprehended change of conditions of service of those

who are employed in Railway Employees Co-operative Credit Society Limited, Chennai. The writ petitioner is the Railway Employees Co-operative Society Staff Union. For resolution of the lis in the writ petition, neither the Union of India nor the Railway Board or its Chairman, is necessary or property party. The employees working with the Railway Employees Cooperative Credit Society Limited, Chennai, are not the employees of the Indian Railways.

3. In fact, a similar question has fallen for consideration before a three Judge Bench of the Supreme Court in Union of India (Railways Board) and others vs. J.V.Sbhaiah and others-1996 (2) SCC 258. The Supreme Court held that "the officers, employees and servants appointed by the Railway Co-operative Stores/Societies cannot be treated on par with Railway servants under paragraph 10B of the Railway Establishment Code nor they can be given parity of status, promotions, scales of pay, increments etc."

4. Hence, the order passed by the learned single Judge based upon the premises that any lis concerning with the employees of the Railway Employees Cooperative Credit Society, requires to be adjudicated in the presence of the Union of India represented by its Ministry of Railways or the Railway Board or its Chairman or the General Manager of the Southern Railway, is not sustainable since Union of India is not a proper or necessary party.

5. The writ appeal stands allowed and the order passed by the learned single Judge impleading the Union of India and the Chairman, Railway Board as parties to the writ petition suo motu, is set aside. The writ petition will now proceed against the Respondents 1 to 3 only. No costs. Consequently, C.M.P.No.17371 of 2016 is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

WEB COPY
Sub Assistant Registrar

gr.

Copy to:

1. The General Secretary, Railway Employees Cooperative Society Staff Union (Reg.No.3432/CNI), No.2/30, Lettangs Road, Vepery, Chennai 600 007.
2. The Labour Officer, 3rd Floor, Kuralagam, Chennai 600 108.
3. The Secretary, Department of Labour and Employment, Fort St. George, Chennai- 600 009.
4. The General Manager, Southern Railway, Central Chennai, Poonamallee, Chennai.
5. The Secretary, Union of India, Ministry of Railways, Railway Bhavan, New Delhi 110 001.
6. The Chairman, Railway Board, Rail Bhavan, New Delhi 110 001.

Copy to: The Section Officer
Writ Section, High Court, Madras

+1cc to Mr.A. Jenasenar, Advocate, S.R.No.926
+1cc to Mr.V.G. Suresh Kumar, Advocate, S.R.No.1564
+1cc to the Government Pleader, S.R.No.1689

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md(23/01/2017)

W.A.No.1350 of 2016

सत्यमेव जयते

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