

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.28498 of 2016

and

W.M.P.No.24609 of 2016

Railway Employees Co-operative Society Staff
Union (Reg. No.3432/CNI),
Rep. by its General Secretary,
R.C.Cyril Thiyagaraj,
No.2/30, Lettangs Road,
Vepery, Chennai 600 007

..Petitioner

Vs.

- 1.The Labour Officer - 1
3rd Floor, Kuralagam,
Chennai 600 108.
- 2.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Labour and Employment,
Fort, St. George,
Chennai 600 009.
- 3.The Chief Executive,
Railway Employees Co-operative
Credit Society Ltd.,
Ashok Vihar Complex,
Old Zoo Road, Chennai 600 003.
- 4.The Sourthern Railway,
Rep. by its General Manager,
Central Chennai,
Poonamallee, Chennai.
- 5.Union of India,
Ministry of Railways,
represented by its Secretary,
Rail Bhavan,
New Delhi-110 001.
- 6.The Chairman,
Railway Board,
Rail Bhavan,
New Delhi -110 001.

..Respondents

(R-4 suo-motu impleaded as per order dated 19.10.2016 in WP.No.28498 of 2016.

R-5 and R-6 suo-motu impleaded as per order dated 20.10.2016 in WP.No.28498 of 2016.)

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the second respondent to refer 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 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 Petitioner .. Ms.D.Nagasaila

For Respondents .. Mr.S.Diwakar,
Spl. Govt. Pleader for R1 & R2
Mr.R.Krishnamoorthy,
Senior Counsel
for Mr.A.Jenasenan for R3
R4 - No appearance

ORDER

The petitioner, being a Union, filed this writ petition, seeking a direction to the second respondent to refer the industrial disputes dated 04.04.2016 for adjudication immediately on receipt of the failure report from the first respondent and a further direction has also been sought against the third respondent not to alter the service conditions as mandated under Section 9A of the Industrial Disputes Act (for short 'the Act'), in view of the statutory prescription giving succour to the employee under Section 33 of the Act.

2.This writ petition has been filed in the year 2016. Thereafter, the second respondent has referred the industrial disputes for adjudication and they are being adjudicated as I.D. Nos.27, 31 and 32 of 2016. The matters which have been posted today before the Industrial Tribunal stand adjourned to 05.04.2017 and 06.04.2017 for further hearing. Thus,

practically, the relief sought for in the writ petitions stand satisfied.

3.Learned counsel appearing for the petitioner has made one more submission. Learned counsel submits that in view of the mandate provided under Section 33 of the Act, the protection as sought for in the writ petition, pending reference, would also be available in the proceedings pending before the Industrial Tribunal after reference.

4.Learned senior counsel appearing for the third respondent submits that there is no difficulty in complying with Section 33 of the Act, which is of a binding nature.

5.In view of the above said settled position of law, this Court is of the view that Section 33 of the Act has to be complied with in letter and spirit by the third respondent during the currency of the proceeding before the Industrial Tribunal.

6.With the above said observation, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.The Labour Officer - 1
3rd Floor, Kuralagam,
Chennai 600 108.

2.The Secretary,
State of Tamil Nadu,
Department of Labour and Employment,
Fort, St. George,
Chennai 600 009.

3.The Chief Executive,
Railway Employees Co-operative
Credit Society Ltd.,
Ashok Vihar Complex,
Old Zoo Road, Chennai 600 003.

4.The General Manager,
The Southern Railway,
Central Chennai,
Poonamallee, Chennai.

5.The Secretary Ministry of Railway
Union of India,
Rail Bhavan,
New Delhi-110 001.

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

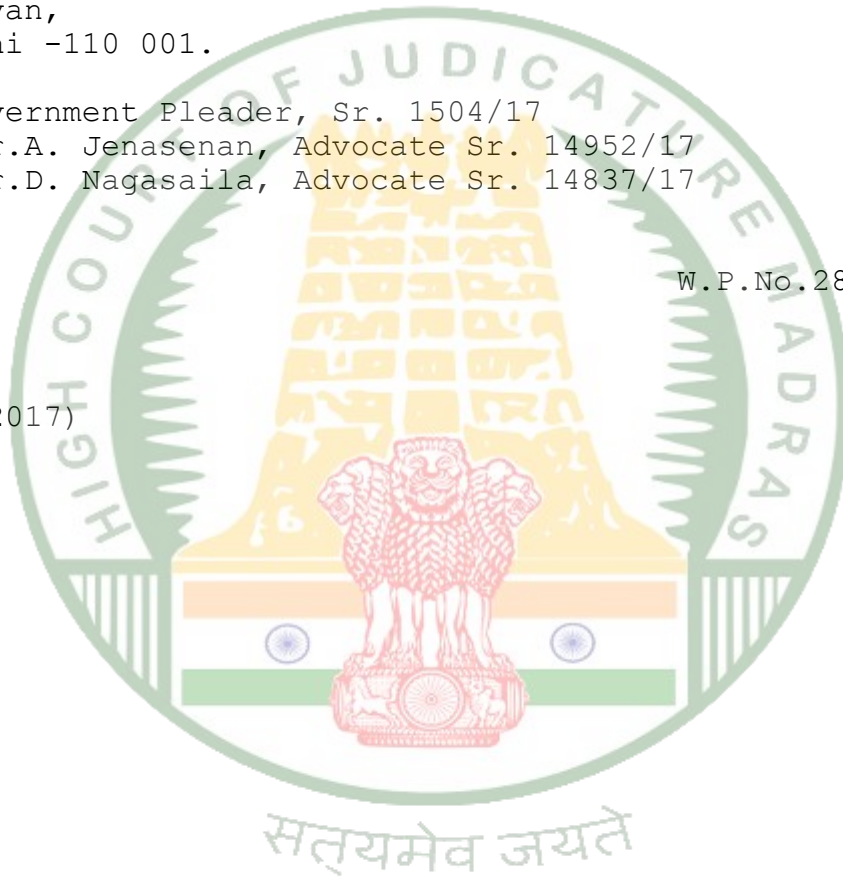
+1cc to Government Pleader, Sr. 1504/17

+1cc to Mr.A. Jenasenar, Advocate Sr. 14952/17

+1cc to Mr.D. Nagasaila, Advocate Sr. 14837/17

W.P.No.28498 of 2016

SV (CO)
VR(16/03/2017)



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