

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.NO.18485 of 2013
and W.M.P.Nos.1 of 2013 and 1 of 2015

- 1.The General Manager
Head Office, Tamilnadu State Transport
Corporation (Villuppuram Division-2) Ltd
Rangapuram, Vellore.
- 2.The General Manager,
Head Office,
Tamil Nadu State Transport Corporation,
Thiruvannamalai Division) Ltd.,
Tiruvannamalai. Petitioner

Vs

- 1.The Presiding Officer
I Additional Labour Court, Vellore District
Vellore.
- 2.A.Jayabalan
- 3.The General Manager
Tamilnadu State Transport Corporation (Salem)
Division, Dharmapuri Region, Salem Divisio
Bharathi Nagar, Dharmapuri. Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari to
call for the records of the first respondent in I.D.No.26 of
2009 dated 19.09.2011 and quash the same as illegal.

For Petitioner : Mr.Antony Arockiaraj

For Respondents : R1 - Court
*R2 - Mr.K.M.Ramesh
R3 - No appearance

O R D E R

Claiming service seniority and pay protection in terms of
the G.O.Ms.No.664, Transport Department (Ex.M3), the workman has

raised industrial dispute before the Additional Labour Court, Vellore. The labour court, after appreciating the oral and documentary evidence available on record, has passed the impugned award holding that the claim of the union that workman A.Jayabalan (second respondent herein) is entitled to get fixation of seniority and promotion with pay fixation. This order of the labour court is under challenge in this writ petition.

2.The brief facts leading to the filing of the writ petition is as follows. The second respondent / workman has been appointed on 28.12.1987 as Company Apprentice in Tamil Nadu Goods Transport Corporation Limited, for a period of two years. After completion of two years period, on 30.06.1989 he was absorbed as Helper by the Tamil Nadu Goods Transport Corporation Limited. In the mean time, by G.O.Ms.No.307 dated 22.03.1989, the Tamil Nadu Goods Transport Corporation Limited was wound up.

3. Clause 3(vi) of G.O.Ms.No.644 dated 14.06.1989 provided that the staff indicated in the annexure to be transferred to the sister state transport corporations indicated against each of them, and the services put in by the employees of Goods Transport Corporation shall be protected in the corporation to which they will be accredited. Accordingly, the second respondent was transferred from Tamil Nadu Goods Transport Corporation to Annai Sathya Transport Corporation originally and later to Pattukkottai Alagiri Transport Corporation. While his services were transferred to Annai Sathya Transport Corporation and thereafter to Pattukkottai Alagiri Transport Corporation, the past services and pay last drawn by the second respondent has not been protected in tune with G.O.Ms.No.644 dated 14.06.1989, is the main contention raised by the learned counsel for the workman. It is specifically contended that though the juniors of the second respondent who were absorbed in various other transport corporations were given services seniority and pay protection, the said benefits were not extended to the second respondent. Aggrieved by the same, the union in which the second respondent was a member, filed I.D.No.26 of 2009 on the file of the Additional Labour Court, Vellore. The Government of Tamil Nadu by G.O.Ms.No.317, Labour and Employment Department, referred the industrial dispute for adjudication and the labour court passed the impugned order dated 19.09.2011.

3. Whether the order of the labour court holding that the second respondent / workman is entitled to get fixation of seniority and promotion with pay fixation, is justified or not, is the question raised in the present writ petition.

3.1.A perusal of the order of the labour court would go to show that the labour court has extensively considered the oral and documentary evidence produced on the side of the workman as well as the management. The workman has been appointed as Technical Trade Apprentice in the erstwhile Tamil Nadu Goods Transport Corporation Ltd., on 28.12.1987 and has been promoted

as Helper on 30.06.1989. In the meantime, as the Tamil Nadu Goods Transport Corporation Ltd., was wound up, by virtue of G.O.Ms.No.644 dated 14.06.1989, which is marked as Ex.M3 before the labour court, the employees of Tamil Nadu Goods Transport Corporation Ltd., were transferred to other sister transport corporations. Clause 3(vi) of the said Government Order reads as follows,

"3(vi). The staff indicated in the annexure to the letter third read above be transferred to the sister State Transport Corporations indicated against each of them. The services put in by the employee together with the pay drawn by him in Tamil Nadu Goods Transport Corporation Ltd., will be protected in the Corporation to which he will be accredited."

4. Therefore, when the conditions stipulated in the Government Order is very clear and subject to those conditions, the employees were transferred, there is no reason as to why the second respondent should be deprived of the benefits. The labour court has rightly held that the second respondent should get the pay fixation and seniority based on his original appointment as Helper in the Tamil Nadu Goods Transport Corporation on 30.06.1989. The transport corporation might have been renamed for administrative convenience. But, that cannot deprive the employee of his benefit of his original service and the original pay structure.

5. Under the circumstances, the award passed by the labour court cannot be found fault with and the writ petition filed by the management, challenging the award of the labour court is liable to be dismissed and it is dismissed accordingly. No costs. Consequently, connected W.M.P. is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS IX)

Dated: 27/11/2018

*** Corrected as per order dated**

18/12/2018 made in

W.P.No.18485/13

SD/-

Assistant Registrar(CCC)

Dated: 02/01/2019

//True Copy//

Sub Assistant Registrar

kst

To

1.The Presiding Officer
I Additional Labour Court,
Vellore District,
Vellore.

**To be substituted the
order already dispatched
on 14.12.2018**

2.The General Manager
Tamilnadu State
Transport Corporation (Salem)
Division, Dharmapuri Region,
Salem Division
Bharathi Nagar, Dharmapuri.

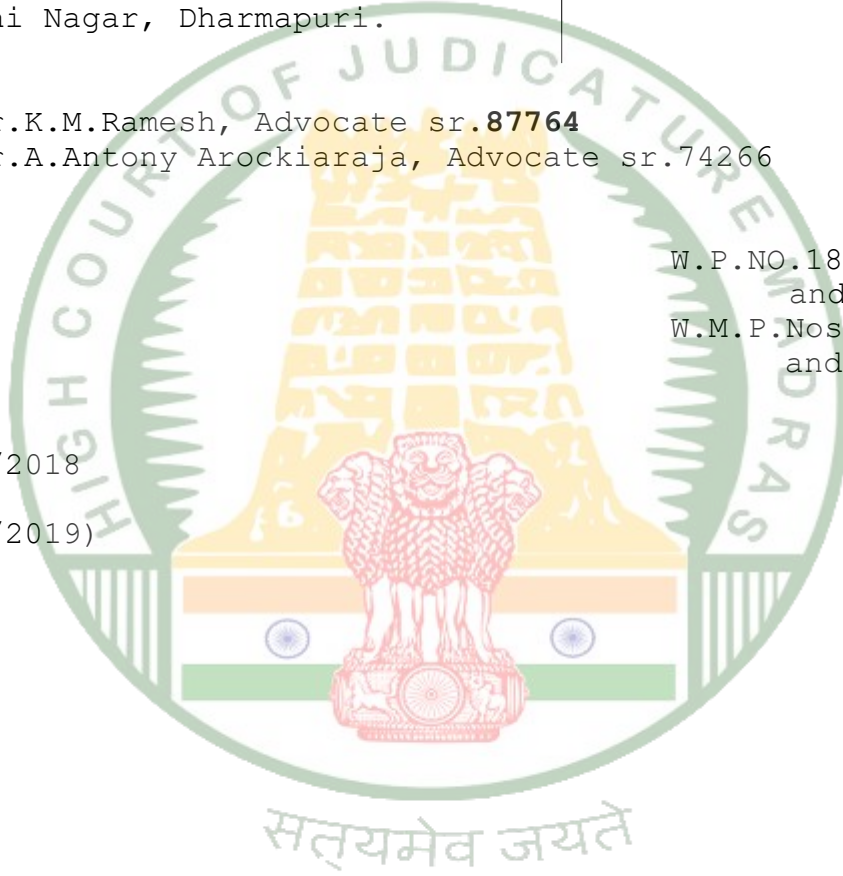
+lcc to Mr.K.M.Ramesh, Advocate sr.87764

+lcc to Mr.A.Antony Arockiaraja, Advocate sr.74266

W.P.NO.18485 of 2013
and
W.M.P.Nos.1 of 2013
and 1 of 2015

mr[col]
srg 30/11/2018

ASK(03/01/2019)



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