



THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. (MD) Nos. 1551 and 1552 of 2018
and C.M.P. (MD) Nos. 11063, 11064 and 11065 of 2018

W.A. (MD) No. 1551 of 2018

Tamilnadu State Transport
Corporation (Madurai) Ltd.,
Bye Pass Road,
Madurai - 10.

... Appellant/First Respondent

-vs-

1. N. Karuppiyah

... Respondent/Petitioner

2. The Government of Tamilnadu,
Rep. by its Secretary,
Transport Department (C2),
St. George Fort,
Chennai - 109.

... Respondent/Second Respondent

W.A. (MD) No. 1552 of 2018

Tamilnadu State Transport
Corporation (Madurai) Ltd.,
Bye Pass Road,
Madurai - 10.

... Appellant/First Respondent

-vs-

1. Arokkia Arumairaj

... Respondent/Petitioner

2. The Government of Tamilnadu,
Rep. by its Secretary,
Transport Department (C2),
St. George Fort,
Chennai - 109.

... Respondent/Second Respondent

PRAYER in W.A. (MD) No. 1551 of 2018: Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order in W.P. (MD) No. 14706 of 2015 dated 05.06.2018 on the file of this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

Prayer in WP(MD) . 14706/ 2015 :



Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring the 18(1) settlement dated 14.03.2007 and the fresh employment given to the petitioner on the basis of the settlement as illegal, invalid and violates the constitutional right of the petitioner, consequently direct the respondent to pass appropriate orders treating the petitioner as permanent employee of the 1st respondent corporation on the basis of his original employment dated 01.04.1992 with all consequential service benefits.

PRAYER in W.A. (MD) No. 1552 of 2018: Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order in W.P. (MD) No. 14707 of 2015 dated 05.06.2018 on the file of this Court.

Prayer in WP(MD) . 14707/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring the 18(1) settlement dated 13.03.2007 and the fresh employment given to the petitioner on the basis of the settlement as illegal, invalid and violates the constitutional right of the petitioner, consequently direct the respondent to pass appropriate orders treating the petitioner as permanent employee of the 1st respondent corporation on the basis of his original employment dated 01.04.1992 with all consequential service benefits.

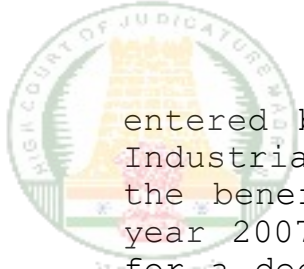
For Appellant	:	Mr. A. Jeyaram Standing Counsel for TNSTC (in both W.A.s)
For Respondents	:	M/s. R. Aravindan (in both W.A.s)

COMMON JUDGMENT

(Judgment of the Court was delivered by **P.D. AUDIKESAVALU, J.**)

These intra-Court appeals have been preferred against the common order dated 05.06.2018 in W.P. (MD) Nos. 14706 and 14707 of 2015 passed by the Learned Judge of this Court granting certain directions. The parties are hereinafter referred to as their description in Writ Petition for the sake of convenience.

2.The Petitioners, who are employed by the First Respondent, had been dismissed from service for misconduct against which they had raised industrial disputes. During the pendency of those industrial disputes, the First Respondent/Corporation offered to treat the Petitioner as fresh entrants and settlements were



entered between them to that effect under Section 18(1) of the Industrial Disputes Act, 1947. The Petitioners, who have availed the benefits of the said settlements, had re-joined duty in the year 2007, but filed the Writ Petitions in the year 2015 seeking for a declaration that those settlements were illegal and invalid as they have been deprived of their past employment. It was urged on behalf of the First Respondent before the Learned Judge that as per the provisions of the Section 18(1) of the Industrial Disputes Act, 1947, which reads that a Settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement, cannot be resiled. However, the Learned Judge was of the view that having regard to the fact that the Petitioners had been dismissed from service on 24.11.2001 and had been out of employment till the offer of settlement was made on 15.03.2007, they have given up their claim for past service under economic duress and the same has serious financial consequences warranting interference by the Court. In that view of the matter, the Learned Judge directed that the Petitioners should be treated as permanent employees of the First Respondent from the date of their original employment with continuity of service throughout for all notional purposes except for the payment of wages for period from 24.11.2001 to 15.03.2007. The aforesaid order of the Learned Judge is assailed by the First Respondent in these appeals.

3. We have heard Learned Counsel appearing for the parties and we are of the considered view that the Writ Petition itself ought not to have been entertained in view of the binding decision of the full Bench of this Court in P. Pitchumani -vs- The Management of Sri Chakra Tyres Ltd., [2004 (3) CTC 1], in which it has been categorically ruled that the matters concerning service conditions of employees governed by Industrial Disputes Act, 1947, have to be adjudicated only by the fora created under that statute and are not amenable to the Writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950. It is not in dispute that during the pendency of the industrial disputes raised by the Petitioners against their dismissal from service, they have entered into settlement under Section 18(1) of the Industrial Disputes Act, 1947, which was binding on them. The circumstance that the Petitioners have been out of employment from the year 2001 onwards till the offer of employment as fresh entrants was made to them in 2007 was under economic duress, cannot be accepted. If the Petitioners were not satisfied with the offer made by the Respondent of providing employment to them as fresh entrants, nothing prevented them from refusing to accept the same and proceed to get their claims for employment adjudicated in the proceedings under the Industrial Disputes Act, 1947, that were then pending. The conduct of the Petitioners in having accepted the offer made by the First Respondent resulting in closing the industrial disputes as having been settled between the parties then, has placed the First Respondent in a piquant situation, which the Petitioners cannot now take advantage at the cost of the



public exchequer. Above all, we do not find any satisfactory explanation for the inordinate delay from the year 2007 to the year 2015 for the Petitioners to assail the forfeiture of their past service. Viewed from this perspective, the Writ Court ought not to have shown any indulgence to the Petitioners and extended them relief in the exercise of the discretionary powers of this Court under Article 226 of the Constitution of India, 1950. Accordingly, the common order dated 05.06.2018 in W.P. (MD) Nos. 14706 and 14707 of 2015 is set aside and the Writ Petitions shall stand dismissed.

4. The Writ Appeals are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Secretary to Government,
Transport Department (C2),
Fort St. George,
Chennai - 600 009.

+2cc to Mr.R. Aravindan Advocate in SR.No.96121,96122
+1cc to Mr.A. Jeyaram Advocate in SR.No.95901
+1cc to Special Government Pleader Advocate in SR.No.96019

W.A. (MD) Nos. 1551 and 1552 of 2018
19.11.2018

VJT

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