

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.10066 of 2004

Arasu Viraiivu Pokkuvarathu Uziar Sangam,  
Rep. by its General Secretary,  
2, Pallavan Salai,  
Chennai - 600 002.

..Petitioner

-Vs-

State Express Transport Corporation Ltd.  
Rep. by its Managing Director,  
Pallavan Salai,  
Chennai 600 002.

..Respondent

PRAYER:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus to forbear the respondent from reducing attendance to the conductors and changing the O.T. pattern from hourly based to flat rate without complying with Section 9-A of the ID Act.

For Petitioner : V.Ajoy Khose

For Respondent : Mrs.K.Bhuvaneswari, AGP

सत्यमेव जयते  
O R D E R

The relief sought for in this Writ Petition is for a direction to forbear the respondent from reducing attendance to the conductors and changing the overtime pattern from hourly based to flat rate without complying with the provisions under Section 9-A of the Industrial Disputes Act.

2. The grievance of the petitioner is that the respondent Corporation is attempting to change the overtime pattern, which was fixed at 7 hours to flat rate at Rs.150/- to their disadvantage. Likewise, existing 5 hours overtime is now sought to be changed at a flat rate of Rs.70/-.

3. According to the learned counsel for the petitioner, these changes will substantially reduce the work and they would be losing considerable amount of their income. It is also submitted that the proposal has been made without notice under Section 9-A of the Industrial Disputes Act.

4. The apprehension of the petitioner is that these changes would reduce their wages and hours of work, which are the aspects covered under the Fourth Schedule of the Industrial Disputes Act. Before any change is made with reference to a matter covered under the Fourth Schedule, a notice under Section 9-A of the Industrial Act is mandatory. As such, I find some force in the submission of the learned counsel for the petitioner.

5. The learned Additional Government Pleader submitted that the Writ Petition is of the year 2004, nevertheless, the apprehension of the petitioner Sangam no longer survives. The pattern of engaging two drivers and one conductor in the long distance buses has been given up and the respondent Corporation is engaging one driver-cum-conductor in the long distance buses, which has also been accepted by the workers of the respondent Corporation.

6. While considering the said submission, I am also of the view that the cause of action which arose in the year when the Writ Petition came to be filed, may not exist. Even otherwise, I am constrained to observe that Section 9-A of the Industrial Disputes Act is a mandatory provision and whenever there is any change in the service conditions touching upon the matter under the Fourth Schedule of the Industrial Disputes Act, the respondent Corporation is bound to give notice under Section 9-A of the Industrial Disputes Act.

7. With the above observations and by recording the submissions of the learned Additional Government Pleader for the respondent-Corporation, the Writ Petition stands closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

pvs

To

The Managing Director,  
State Express Transport Corporation Ltd.  
Pallavan Salai,  
Chennai 600 002.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.10586

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RV (Co)  
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