

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2019

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.7378 of 2011

and

M.P.No.1 of 2011

The Management, General Manager,
Tamilnadu State Transport Corporation Ltd.,
Villupuram, Division-2,
Vellore Region, Vellore.

.. Petitioner

-vs-

1.The Presiding Officer,
Labour Court,
Vellore.

2.K.Sidduswamy

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to I.A.No.71 of 2010 in I.D.No.207 of 2007 dated 11.08.2010 and I.D.No.207 of 2007 dated 21.10.2009 on the file of the first respondent herein and quash the same.

For Petitioner : Ms.Rajini Ramadoss,

For Respondents: R1 - Labour Court

: R2 - Mr.S.T.Varadarajulu

ORDER

The order dated 11.08.2010 passed in I.A.No.71 of 2010 in I.D.No.207 of 2007 is under challenge in the present writ petition.

2.The petitioner is the Management of Tamil Nadu State Transport Corporation (Villupuram) Limited.

3.Learned counsel for the writ petitioner states that the 2nd respondent was engaged as Conductor on casual basis. During the inspection by the Checking Inspectors of the petitioner Transport Corporation, they found that 13 passengers were travelling without tickets. The allegation against the 2nd respondent was that he collected the fare amount of Rs.2.25/-

from 13 passengers, who were travelling in the bus and did not issue tickets to them. Accordingly, a charge sheet was issued, domestic enquiry was conducted and based on the proved charges, the Management imposed punishment of dismissal from services. The 2nd respondent raised an industrial dispute in I.D.No.207 of 2007 and the Labour Court passed an ex-parte award on 21.10.2009.

4.Perusal of the award reveals that initially, the writ petitioner Corporation appeared and filed their counter also. However, during the final hearing, none appeared for the writ petitioner Corporation before the Labour Court and accordingly, the Labour Court passed an ex-parte award on 21.10.2009. The writ petitioner Corporation filed an interlocutory application in I.A.No.71 of 2010 to condone the delay of 124 days in filing the application to set aside the ex-parte award dated 21.10.2009. During the hearing of the interlocutory application, the learned counsel for the writ petitioner Corporation was unable to represent the case on account of the fact that the learned counsel met with an accident on 11.10.2009 and sustained head injury. Therefore, the interlocutory application filed in I.A.No.71 of 2010 was also dismissed by the Labour Court on 11.08.2010. Challenging the said order as well as the ex-parte award, the present writ petition is filed.

5.The learned counsel for the writ petitioner states that the reason for non-appearance by the counsel was explained and it was genuine and therefore, the ex-parte award is to be set aside and the matter is to be remanded back for adjudication on merits.

6.The learned counsel for the 2nd respondent workman disputed the contentions by stating that even after passing the ex-parte award and while hearing of the interlocutory application, the writ petitioner Corporation did not appear and therefore, wilfully they have not pursued the industrial dispute before the Labour Court. Thus, no leniency should be shown in respect of the conduct of the writ petitioner Management and accordingly, the writ petition is liable to be rejected.

7.This Court is of a considered opinion that all the issues in an industrial dispute are to be decided on merits, in accordance with law and by affording opportunity to all the parties concerned. An ex-parte award cannot be encouraged for the purpose of executing the same. However, the intention of the parties are also to be considered while setting aside the ex-parte awards. If there is any wilful negligence or an intention to protract and prolong the issues, then the High Courts would not interfere with such orders passed by the Courts ex-parte. However, in certain cases, if the ex-parte orders are passed on account of some personal reasons, then the matters are

to be remanded back for re-adjudication on merits and in accordance with law. Therefore, only in the even of any intention on the part of the parties to prolong and protract the cases, then alone, the ex-parte awards cannot be set aside and in all other circumstances, where some reasons are stated, then the High Courts should set aside the ex-parte awards and remand the matters for re-adjudication on merits by affording opportunity to the parties concerned.

8. These being the principles to be followed, this Court has to consider the fact that the learned counsel, who appeared for the Transport Corporation met with an accident and he could not able to appear on the particular date. However, the 2nd respondent is made to appear again and again for the purpose of redressing his grievances. Thus, this Court is inclined to impose some costs to be paid by the writ petitioner Management to the learned counsel, who is appearing on behalf of the 2nd respondent.

9. Accordingly, the following orders are passed:-

(i) The order dated 11.08.2010 passed in I.A.No.71 of 2010 in I.D.No.207 of 2007, and the ex-parte award dated 21.10.2009 passed in I.D.No.207 of 2007 are quashed;

(ii) The 1st respondent, Labour Court is directed to restore the industrial dispute on file and adjudicate the issues on merits and in accordance with law by affording opportunity to all the parties concerned;

(iii) The 1st respondent is directed not to grant unnecessary adjournments and ensure that the industrial dispute is adjudicated within a reasonable time as expeditiously as possible. Even in case of granting adjournments, the Labour Court is directed to record reasons for such adjournments;

(iv) The parties are directed to cooperate for the early disposal of the case;

(v) The learned counsel for the petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) toward cost to the learned counsel appearing for the 2nd respondent within a period of two weeks' from the date of receipt of a copy of this order;

(vi) The writ petitioner Management is directed to conduct an enquiry in respect of the lapses, negligence and dereliction of duty committed by the officials, who are all responsible to pursue the industrial dispute before the Labour Court and recover the said cost from their salary by instituting appropriate action under the Disciplinary and Appeal Rules.

10.With the above observations and directions, this writ petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

abr

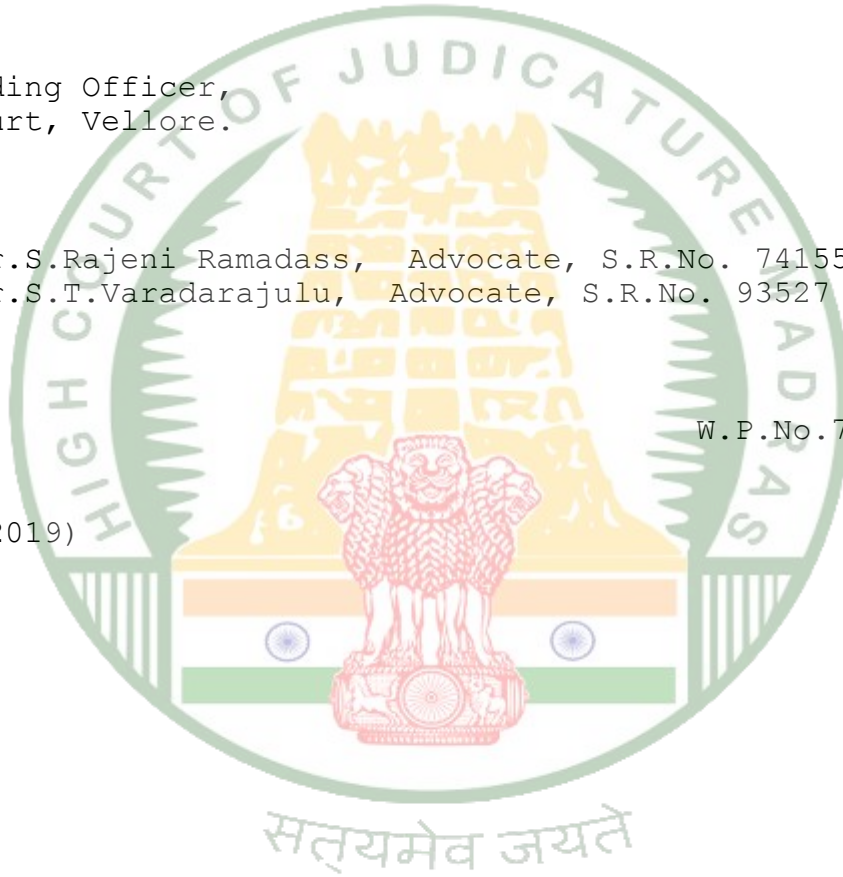
To

The Presiding Officer,
Labour Court, Vellore.

+1cc to Mr.S.Rajeni Ramadass, Advocate, S.R.No. 74155
+1cc to Mr.S.T.Varadarajulu, Advocate, S.R.No. 93527

W.P.No.7378 of 2011

SR(CO)
GN(18/12/2019)



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