

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.21636 of 2018
and
WMP.No.25385 of 2018

W.Mathew Gunaseelan

...Petitioner

Vs

1. The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.
2. The General Manager,
Tamil Nadu State Transport Corporation,
(Villupuram) Limited,
Vellore Region,
Vellore - 632 009.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Mandamus, directing the respondents to consider petitioner representation dated 11.06.2018 and implement the Lok Adalat award dated 10.02.2018 passed in W.P.28033/2013.

For Petitioner : Mr.G.Krishnamurthy

For Respondents : Mr.Antony Arokiaraj
for R1 & R2

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O R D E R

The grievances of the writ petitioner is that, the award passed by the Lok Adalat on 10.02.2018, passed in WP.No.28033 of 2013, has not been complied with by the respondents. Thus, the present writ petition is filed directing the respondents to consider the petitioner's representation dated 11.06.2018 and implement the Lok Adalat award.

2. The Lok Adalat award and the terms of settlement are extracted hereunder:-

"TERMS OF SETTLEMENT

The respondent/workmen availed unauthorised leave without any intimation or prior permission from 30.03.2008 to 24.01.2009. In view of the unauthorised absence of the respondent, the petitioner/management initiated disciplinary proceedings and removed the respondent from the post of driver. Aggrieved by the same, the petitioner has filed a petition under Section 33(2) (b) of the Industrial Dispute Act, 1947, before the first respondent and the same was rejected. AS against which, the present writ petition is filed.

2. While the matter is pending, the workmen as well as the management have arrived for a settlement. The workmen agreed to join duty as a fresh entrant and decided to forgo the entire back wages and continuity of service.

3. As per the settlement arrived at between the parties, the writ petition is disposed of with the following direction:

The petitioner/Management shall allow the workman to work as a driver in the management as a fresh entrant in the daily paid category. Thereafter, based on the performance of the workman, the petitioner / management is directed to absorb him as a regular employee after completing 240 days in the calendar year.

4. Accordingly, this writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed, if any.

The General Manager
Tamilnadu State Transport Corporation (Villupuram)
Limited
Vellore Region,
Vellore - 632 009.

Counsel for the petitioner

1. Special Deputy Commissioner of Labour Chennai

D.M.S.Compound, Chennai - 600 006.

2. Thiru.W.Mathew Gunaseelan

This Lok Adalat award is passed in terms of the above settlement.

The full Court fee paid shall be refunded to the petitioner in the manner provided under Section 69-A of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 and the Court fees Act, 1870 as provided for under Sub Sec.1 of Section 21 rr/w 25 of LSA Act 1987 as amended in 1994."

3. As per the award, the writ petitioner/Management shall allow the workman to work as a driver in the Management as a fresh entrant in the daily paid category. Thereafter, based on the performance of the workman, the petitioner/management is directed to absorb him as a regular employee after completing 240 days in the calendar year.

4. The learned counsel for the respondents states that, inspite of the award passed by the Lok Adalat, the writ petitioner has not expressed his willingness to join duty in the post of Driver. Contrarily, he is requesting for alternate employment citing certain other medical grounds. Thus, it is not as if, the respondents have violated the award passed by the Lok Adalat. It is the writ petitioner who is not interested to joining in the post of driver as per the terms and conditions of the Lok Adalat award.

5. The learned counsel for the writ petitioner now states that the writ petitioner is willing to join in the post of driver. If so, the writ petitioner is at liberty to approach the respondent Management for engaging him in the post of Driver as per the terms of settlement passed in the Lok Adalat award. The respondents should assess the willingness or otherwise of the writ petitioner, so as to post him as a Driver, as the post of driver in a public transport corporation is sensitive and persons who are having full eligibility and involvement alone should be posted to drive the public vehicles. Thus, the performance assessment as per the Lok Adalat award is to be made in respect of the writ petitioner right from the beginning itself. If he is found not suitable, then as per the terms and conditions of the Lok Adalat award, suitable actions are to be taken in the interest of public.

6. With these observations, the writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.
2. The General Manager,
Tamil Nadu State Transport Corporation,
(Villupuram) Limited,
Vellore Region,
Vellore - 632 009.

+1cc to Mr.V.Jaisankar, Advocate, S.R.No. 35906
+1cc to Mr.A.Antony Arockiaraja, Advocate, S.R.No. 35837

W.P.No.21636 of 2018

GN(21/05/2019)



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