

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 16.07.2019****CORAM**

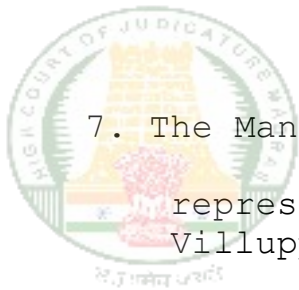
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THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM**W.P(MD) No. 2691 of 2014**

1. Ravichandran
2. Indian National Government Transport Employees Federation represented by its General Secretary for Legal Wing, B. Jeevan Moorthi. ... Petitioners

Vs.

1. The Government of Tamil Nadu, Represented by its Secretary to Government, and Chairman and Ex-Officio Member of Board of Directors of Transport Corporations, Fort Saint George, Chennai - 9.
2. The Management of State Transport Corporation, (Madurai) Limited, Represented by its Managing Director, Tirunelveli.
3. The Management of State Transport Corporation, (Tirunelveli) Limited, Represented by its Managing Director, Tirunelveli.
4. The Management of State Transport Corporation, (Kumbakonam) Limited, Represented by its Managing Director, Kumbakonam.
5. The Management of State Transport Corporation, (Coimbatore) Limited, Represented by its Managing Director, Coimbatore.
6. The Management of State Transport Corporation, (Salem) Limited, Represented by its Managing Director, Salem.



7. The Management of State Transport Corporation,
(Villuppuram) Limited,
represented by its Managing Director,
Villuppuram.

8. The Management of Metropolitan Transport Corporation Limited,
Represented by its Managing Director,
Pallavan Salai, Chennai - 2.

9. The Management of State Express Transport Corporation,
(Tamil Nadu) Limited,
Represented by its Managing Director,
Pallavan Salai, Chennai - 2.

10. The Institute of Road Transport,
Represented by its Director,
100, Feet Road, Tharamani,
Chennai - 600 113.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to promote the first petitioner and other employees of Administrative Miscellaneous Group of respondents-2 to 9 Transport Corporations whose names are mentioned in the list attached to the typed set of papers to the post of Superintendent with retrospective effect from 01.09.2010 with all monetary and other attendant benefits as agreed in Clause - 10(4) of Settlement dated 22.01.2011 entered into Under Section 12(3) of Industrial Dispute Act within the time stipulated by this Court.

For Petitioner : Mr. A. Rahul
For Respondent-1 : Mr.K. Mu. Muthu
Additional Government Pleader
For Respondent-2 : Mr.J. Senthil Kumaraiah
For Respondent-4 : Mr.D. Sivaraman
For Respondents-3,5 to 10 : Mr.K. Sathiya Singh

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to promote the first petitioner and other employees of the Administrative Miscellaneous Group of respondents-2 to 9 Transport Corporations whose names are mentioned in the list attached to the typed set of papers to the post of Superintendent with retrospective effect from 01.09.2010 with all monetary and other attendant benefits as agreed in Clause - 10(4) of Settlement dated 22.01.2011 entered into Under Section 12(3) of Industrial Disputes Act.



2. The present writ petition is filed by one Senior Assistant Mr. Ravichandran along with Indian National Government Transport Employees Federation. The entire claim of the writ petitioner is set out based on Clause 10(4) of the settlement deed, dated 22.01.2011 entered into under Section 12(3) of the Industrial Disputes Act by the Management with the Employees Union.

3. The learned counsel appearing on behalf of the writ petitioners states that the first petitioner is an employee and the second petitioner is a Trade Union registered under the Trade Unions Act. The grievance of the writ petitioners are that the agreement entered into under the 12(3) of the Industrial Disputes Act settlement has not been implemented by granting promotion to the members of the Trade Union as well as the first writ petitioner. This Court is of the considered opinion that when the grievances are set out with reference to the conditions stipulated in the 12(3) settlement entered into between the Management and the Workman under the Industrial Disputes Act, they have to approach the competent Labour Court for the purpose of adjudication of the disputes raised. However, the disputed facts with reference to the 12(3) settlement cannot be adjudicated in a writ jurisdiction under Article 226 of the Constitution of India. Such disputed issues are to be adjudicated by producing the documents and by adducing the evidences before competent Labour Court by the Trade Union and the procedures contemplated under the Industrial Disputes Act are also to be followed before raising the dispute. This being the principle to be followed, the writ petition claiming certain benefits based on 12(3) settlement cannot be granted nor adjudicated. Under these circumstances, the writ petitioners are at liberty to approach the competent Court of Law if they are otherwise eligible.

4. With the above observation, the writ petition stands dismissed. No Costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To
The Secretary to Government and Chairman
and Ex-Officio Member of Board of
Directorates of Transport Corporations,
Government of Tamilnadu,
Fort Saint George, Chennai - 9.



+1 CC to Mr.K.SATHIYA SINGH, Advocate (SR-75579[F] dated 16/07/2019)

+5 CC to Mr.D.SIVARAMAN, Advocate (SR-75621[F] dated 17/07/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-75758[F] dated 17/07/2019)

+1 CC to Mr.J.SENTHIL KUMARAIAH, Advocate (SR-75884[F] dated 17/07/2019)

+1 CC to Mr.A.RAHUL, Advocate (SR-75970[F] dated 18/07/2019)

W.P[MD)]No. 2691 of 2014
16.07.2019

KSA/AM

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