

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.33423 of 2019

G.Shanmugam

... Petitioner

Versus

M/s.State Express Transport Corporation Ltd.,
Rep.by its Managing Director,
No.2, Pallavan Salai,
Chennai-600 002.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Principal Labour Court in E.P.No.11 of 2019 dated 26.08.2019 and quash the same and consequently, direct the Ist Additional Labour Court, Chennai to issue necessary orders to arrest the respondent in having failed to regularize the services of the petitioner from 01.01.1997.

For Petitioner : Mr.D.Soundar Raj

For Respondent : No-appearance

O R D E R

Heard the learned counsel appearing for the petitioner.

2. Though the petitioner has challenged the order passed by the Labour Court in E.P.No.11 of 2019 dated 26.08.2019, after some arguments, the learned counsel appearing for the petitioner would contend that pursuant to the earlier order passed by this Court in W.P.No.19488 of 1996 dated 14.11.1997, where a direction was given to the respondent to regularize the service of the petitioner since admittedly, the petitioner has completed 240 days continuously, such order of regularization ought to have been passed.

3. Though the order passed by this Court is to regularize the service of the petitioner from the date of completion of 240 days, the respondent has passed the order belatedly on 08.03.2007 regularizing the service of the petitioner with effect from 01.07.2006.

4. Therefore, in respect of belated regularization order with effect from 01/07/2006, the petitioner ought to have challenged the said belated regularization part alone in the order dated 08.03.2007. Therefore, the learned counsel for the

petitioner would submit that he wants to withdraw this petition with a liberty to challenge the order dated 08/03/2007 for regularizing the service of the petitioner from an early date.

5. I have heard the submissions made by the learned counsel appearing for the petitioner.

6. It has some force because, in the order dated 14.11.1997 in W.P.No.19488 of 1996 filed by the writ petitioner along with other similarly placed employees, this Court has passed the orders where the relevant paragraph No.8 is extracted hereunder:

8. In the result, the writ petition is allowed, and the respondent/Management is hereby directed to regularize the services of the writ petitioners within 30 days from the date of receipt of copy of this order. No costs. WMP.No.27756/96 is closed as not necessary.

7. Pursuant to the said order, the respondent/Transport Corporation ought to have passed an order regularizing the service of the petitioner either from the date of original engagement on 17.12.1994 or atleast from the date of order passed by this Court in W.P.No.19488/1996 dated 14.11.1997.

8. However, after 10 years, the order has been passed on 08.03.2007, regularizing the service of the petitioner from 01.07.2006. Therefore, in all fairness, the contention of the petitioner has to be accepted as the petitioner ought to have challenged the only said infirmity in the order dated 08.03.2007. In view of that with the said liberty this Court is inclined to dispose the writ petition with the following orders:

(i) that the challenge now made in the impugned order against the order of the Labour Court dated 26.08.2019 in E.P.No.10 of 2019 may not be sustainable. Accordingly, the learned counsel has submitted that he wants to withdraw the writ petition with liberty as stated above.

(ii) Therefore, the writ petitioner is permitted to withdraw this petition with liberty to challenge the order of the respondent dated 08.03.2007 where the issue of latches shall not stand in the way.

9. With the above said liberty, the writ petition is dismissed as withdrawn. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

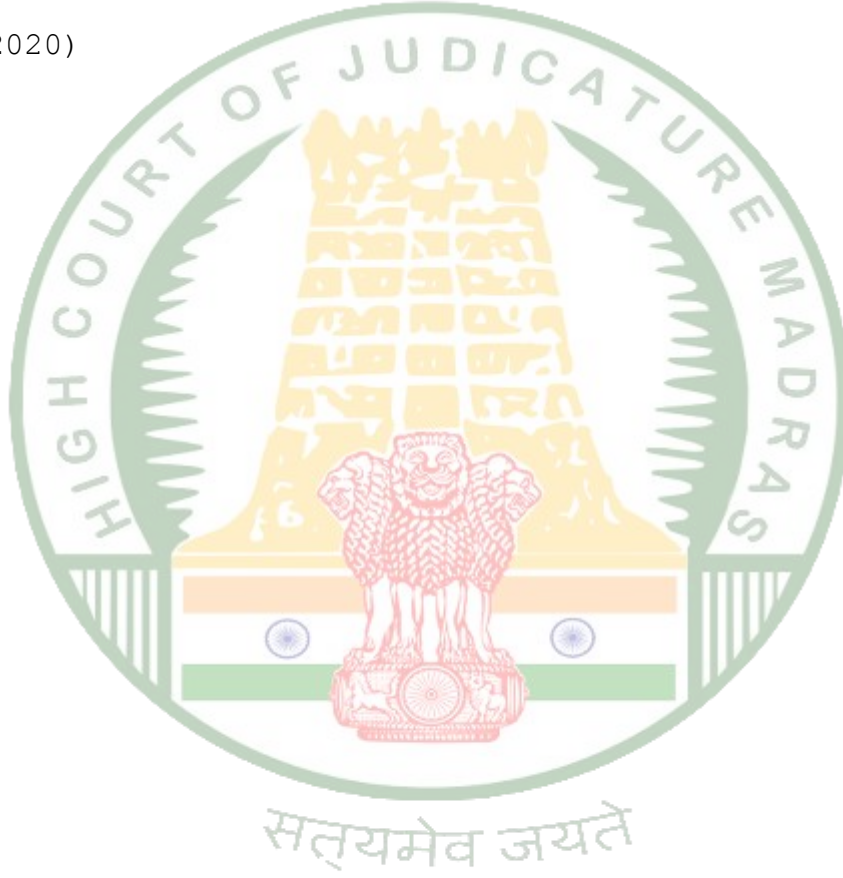
To:

M/s.State Express Transport Corporation Ltd.,
Rep.by its Managing Director,
No.2, Pallavan Salai, Chennai-600 002.

+1cc to Mr.K.Kathiresan, Advocate, S.R.No. 32629

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PVS (CO)
GN(02/11/2020)



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