

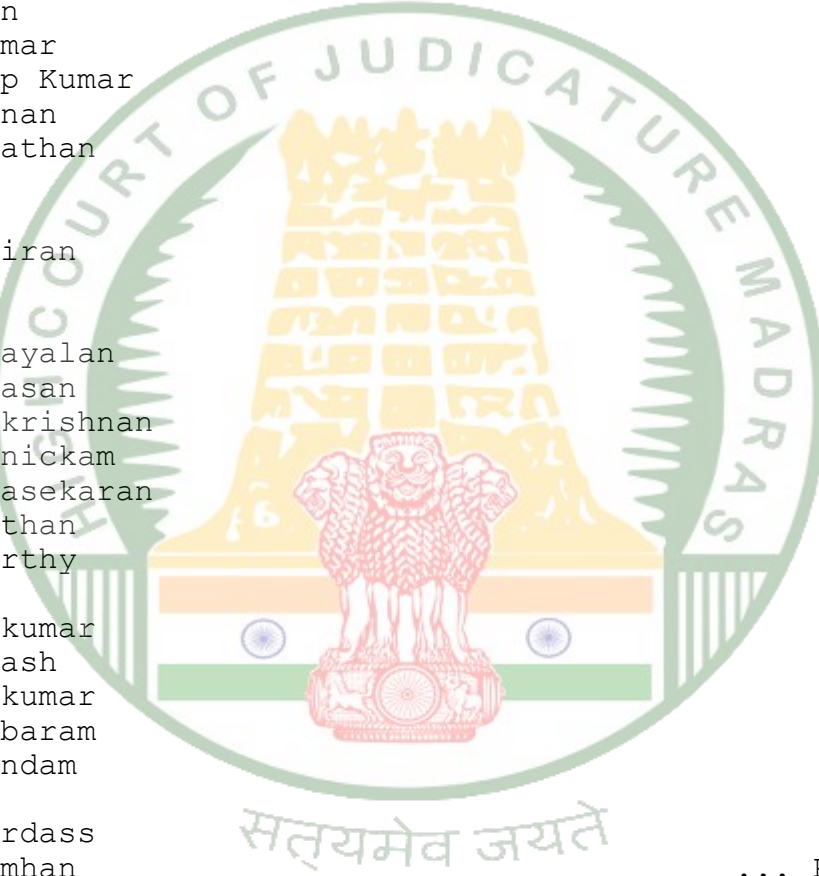
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021
CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.21340 OF 2013

1. M.Ganesan
2. G.Selvamurugan
3. P.Thanikachalam
4. M.Dayalan
5. B.Sivakumar
6. M.Pradeep Kumar
7. N.Narayanan
8. P.Viswanathan
9. T.Suresh
10. G.Elango
11. K.Rajendiran
12. T.Mani
13. M.Panjan
14. G.Deenadayalan
15. K.Srinivasan
16. M.Gopalakrishnan
17. D.Rajamanickam
18. K.Chandrasekaran
19. R.Loganathan
20. M.Ramamurthy
21. R.Adam
22. N.Vijayakumar
23. A.M.Prakash
24. G.Rameshkumar
25. A.G.Ekambaram
26. V.Sivanandam
27. K.Baskar
28. N.Panneerdass
29. K.Narasimhan



... Petitioners

Versus

1. The Presiding Officer,
The 2nd Additional Labour Court,
Chennai - 600 104.
2. The Management,
Tamilnadu State Transport Corporation (Vizhupuram) Ltd.,
Kanchipuram Region,
No.1 & 2, Sekkupettai Nadutheru,
Kanchipuram - 631 501.

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Award dated 07.01.2013, 05.08.2004 passed in I.D.Nos.63, 64, 66, 67, 69, 73, 76, 79, 81, 83, 86, 87, 90, 94, 95, 96, 102, 103, 105, 107, 108, 109, 110, 111, 118, 122, 124 and 125 of 2010, ID.No.121 of 2010 quash the same and consequently direct the 2nd respondent to reinstate the petitioners in service with continuity of service and backwages and other attendant benefits, Award costs.

For Petitioners : Mr.S.T.Varadarajulu

For Respondent-2 : Mr.C.S.K.Sathish,
Standing Counsel

O R D E R

The Writ Petitioners are the workmen, who were engaged during the ban period of recruitment to meet the exigency. They were employed during the festival period, which is perennial.

2.It appears from the record that about 1685 employees were retrenched from service. After interference of this Court, about 952 retrenched employees were reinstated. The Government has considered the request of the Union as well as the individuals and passed G.O.Ms.No.41, Transport (C1) Department, dated 13.07.2006 and given preference in appointment as per Section 25 (H) of the Industrial Dispute Act, stating that:-

i) preference shall be given to those who have obtained the High Court order under Section 25(H) of the said Act.

ii) those who have approached the Court and the same is still pending.

iii) those who have not approached but seeking the similar benefit, subject to the eligibility condition, from the Management.

3.While the matter stood thus, the Writ Petitioners approached the Labour Court for setting aside the order of termination and for reinstatement. The Labour Court after verifying all the documents filed in respect of their claims, have come to conclusion that the claim of the petitioners is not sustainable, as they have not put in 240 days of service. The further claim is that those who have done double duty, it should

be considered as work for 2 days, was also not accepted, in view of the order passed by this Court in WP.No.14249 of 1998. That apart, the Labour Court, also rejected the claim, on the ground that the petitioners, who are not sponsored by the Employment Exchange are not entitled to such relief.

4. But, a perusal of the G.O.Ms.No.41 and the relevant portion extracted in the said Government Order, it is specified that not only those who were sponsored by employment exchange, but also those who are not sponsored by the employment exchange were directed to be considered by the Government. In view of the matter, as far as the preferential consideration is concerned, the petitioners may fall in the last category, as they have not completed 240 days of work and they have not been sponsored through employment exchange. It is true that the relief claimed by the petitioners cannot be granted as they have not completed the duty of 240 days, yet they can be considered under Section 25(H) of I.D, Act.

5. It is open to the Writ Petitioners to make their representations within a period of four weeks from the date of receipt of the copy of this order, along with all the substantiated documents to the second respondent. After such representations are submitted, the second respondent is directed to consider their case, in the light of the Government Order in G.O.Ms.No.41, Transport (C1) Department, dated 13.07.2006, subject to eligibility conditions.

6. With the above observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

klr

To

1. The Presiding Officer,
The 2nd Additional Labour Court,
Chennai - 600 104.

2. The Management,
Tamilnadu State Transport Corporation (Vizhupuram) Ltd.,
Kanchipuram Region,
No.1 & 2, Sekkupettai Nadutheru,
Kanchipuram - 631 501.

+1cc to Mr.S.T.Varadarajulu, Advocate, S.R.No.20864

+1cc to Mr.C.S.K.Sathish, Advocate, S.R.No.21254

W.P.No.21340 of 2013

SSN(CO)
CS/23/06/2021



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