



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.10199 of 2010

Administrative Staff Union,
represented by its Secretary,
25 B, Nesamani Nagar,
Ranithottam,
Nagercoil.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The Management of
Tamil Nadu State Transport Corporation (Madurai
Division III), now renamed as
Tamil Nadu State Transport Corporation (Madurai) Limited,
Nagercoil Region,
represented by its Managing Director,
Nagercoil.

3.The Management of
Tamil Nadu State Transport Corporation (Madurai Division II),
now renamed as Tamil Nadu State Transport Corporation (Madurai)
Limited,
Tirunelveli Region,
represented by its Managing Director,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records from the first respondent relating to the award dated 30.01.2009 in I.D.No.89 of 2001 insofar as dismissing the industrial dispute case on the ground of delay and want of materials, quash the same and consequently, direct the first and second respondents to absorb the services of the employees concerned in the industrial dispute by giving them continuity of service from the date of their appointment in the Department of Transport, the Government of Tamil Nadu and to pay them all the consequential benefits, including arrears of wages and other terminal benefits, award cost.



For Petitioner
For R2 & R3

: Mr.S.Arunachalam
: Mr.K.Sathya Singh
Standing counsel

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O R D E R

This writ petition has been filed challenging the award passed by the Labour Court, Tirunelveli in I.D.No.89 of 2001, dated 30.01.2009 and to quash the same.

2. The case of the petitioner is that the petitioner is the Secretary of the Administrative Staff Union and originally 26 employees working in the Department of Transport, Government of Tamil Nadu and the Transport buses were directly operated by the Department of Transport. Thereafter, Transport Corporations were constituted by the Government of Tamil Nadu to operate the transport buses for the traveling public and the second respondent Corporation was formed by the Government of Tamil Nadu to operate buses in Kanyakumari and Tirunelveli District in the year 1973. After formation of the said Corporation, all the employees, who were working at Kanyakumari District Region, were deputed to serve in the Kattapomman Transport Corporation. The grievance of the petitioner Union is that the earlier service rendered by the employees in the Department of Transport was not taken into account in the newly formed Corporation. Hence, they raised an Industrial dispute in I.D.No.89 of 2001 before the Labour Court, Tirunelveli. However, the Labour Court has rejected the same on the ground of laches. Challenging the same, the present writ petition has been filed by the Union.

3. The learned counsel appearing for the petitioner Union would submit that the Transport Corporation was formed in the year 1973 and the Members of the petitioner Union, who were worked in the Transport Department, were subsequently absorbed in the Transport Corporation. However, the service rendered by the employees in the Transport Department was not taken into account in the Corporation. Therefore, the petitioner Union has raised an industrial dispute before the Labour Court and the Labour Court has dismissed the same on the ground of laches. Hence, he prayed for quashing the award passed by the labour Court.

4. The learned Standing counsel appearing for the Transport Corporation would submit that the petitioner Union has raised an industrial dispute after lapse of 30 years and on the ground of laches, the Labour Court, Tirunelveli has dismissed the industrial dispute and hence, he prayed for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner, the learned Standing counsel appearing for the respondents 2 and 3 and perused the materials available on record.



6. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court in a catena of decisions has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award.

7. Considering the facts and circumstances of the case, the issue arisen before the Labour Court is that the earlier service rendered by the employees in the Department of Transport prior to 1973, was not calculated, while absorbing them in the Transport Corporation and admittedly, the cause of action arose in the year 1973. However, there is no proper explanation or reason for the delay in filing the Industrial Dispute in the year 2001 and after lapse of 30 years, they raised the dispute before the Labour Court. The Labour Court has not convinced the reason for the delay in filing the industrial dispute and in the absence of justifiable reason, the Labour Court has dismissed the same.

8. In the result, this Writ Petition is dismissed and the award passed by the Labour Court, Tirunelveli in I.D.No.89 of 2001, dated 30.01.2009 is confirmed. No costs.

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID -19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



W.P.(MD)No.10199 of 2020

To

The Presiding Officer,
Labour Court,
Tirunelveli.

W.P. (MD) No.10199 of 2010
11.01.2021

VB (03.02.2021) 4P 2C