



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND**

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)NOs.1459 to 1469 OF 2014

D.Thirumurthy :Appellant/Writ Petitioner in
W.A(MD)No.1459 of 2014

J.Jayaseelan,
S/o.John Gurusamy, D.No.36, Melakara St.,
Srivilliputhur, Virudhunagar District.

... Petitioner in WA(MD). 1460/ 2014

A.Manikandan,
S/o.R.Appasamy, D.No.11/47-B-1, Nadar 2nd St.,
Sholavandan, Madurai District.

... Petitioner in WA(MD). 1461/ 2014

S.Selvaraj,
S/o.Shanmugam Servai, D.No.784/1,
Anju Nagar, Anna Nagar, Madurai.

... Petitioner in WA(MD). 1462/ 2014

P.Arumugam,
S/o.S.Periyaiya Servai, No.41, Srinivasa Nadar,
2nd Cross St., Thirunagar Post, Madurai.

... Petitioner in WA(MD). 1463/ 2014

V.Muniandi,
S/o.M.Veeranan, D.No.37-A, Park Illam,
East St., Madakulam, Madurai.

... Petitioner in WA(MD). 1464/ 2014



M.Mariappan,
S/o.N.Mahalingam, D.No.7/6, Army House,
Near Rajoose College, Rajapalayam, Virudhunagar District.

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... Petitioner in WA(MD). 1465/ 2014

M.Rajendran
S/o.M.Muthuraman, D.No.25a, Nallamuthupillai,
Mahalipatti Road, Madurai.

... Petitioner in WA(MD). 1466/ 2014

P.Ramaraj,
S/o.K.Perumal, D.No.24, Annaivinayagar Kovil St.,
Anna Nagar, Madurai.

... Petitioner in WA(MD). 1467/ 2014

T.Mutheeswaran,
S/o.M.Duraisamy, D.No.3/28, Sivarajkottai,
Thirumangalam Taluk, Madurai District.

... Petitioner in WA(MD). 1468/ 2014

V.Rajendran,
S/o.V.Veerassamy, D.No.61,V.O.C.St.,
Vayal Veedu, Aruldasapuram, Madurai.

... Petitioner in WA(MD). 1469/ 2014

.Vs.

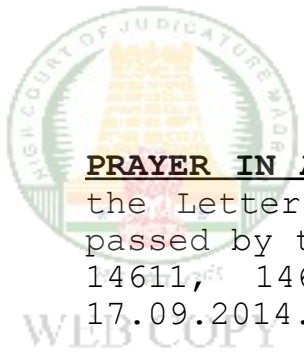
1.The Tamil Nadu Transport Corporation,
represented by the Management,
Madurai -Division, Bye Pass Road,
Madurai.

2.The Tamil Nadu Ex-Service Men Corporation Limited,
Major Parameswaram Memorial Buildings,
West Mada Street, Srinagar Colony,
Saidapet, Chennai-15.

3.The Labour Court,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

: Respondents/Respondents in
W.A (MD) No.1459 of 2014
in all Cases.



PRAYER IN ALL WRIT APPEALS: Writ Appeal filed under Clause 15 of the Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.14606, 14607, 14608, 14609, 14610, 14611, 14613, 14616, 14614, 14615 and 14612 of 2010, dated 17.09.2014.

Prayer in WP(MD). 14606/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.75 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quashes the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14607/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.76 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14608/ 2010 :

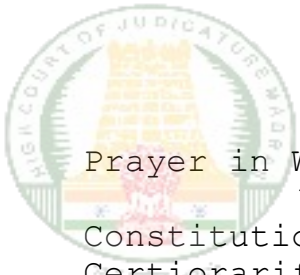
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.77 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14609/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.78 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14610/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.79 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.



Prayer in WP(MD). 14611/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.80 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14612/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.81 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14613/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.82 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14616/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.15 of 2005 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14614/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.88 of 2004 dt.15/04/2010 on the file of the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

Prayer in WP(MD). 14615/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in I.D.Nos.14 of 2005 dt.15/04/2010 on the file of



the Respondent No. 3 and quash the same with respect to the issue of 25% of back wages as illegal, and consequently order full back wages with all pay and allowances from the date of termination till date.

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For Appellant

:Mr.T.Lajapathi Roy

For Respondent-1

:Mr.Jeyaraman
Standing Counsel

For Respondent-2

:Mr.M.Murugan,
Government Advocate

For Respondent-3

:Court

COMMON JUDGMENT

[Judgment of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

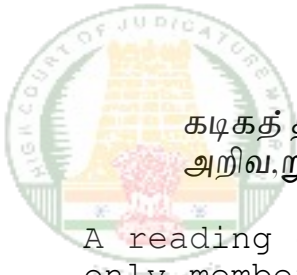
These Writ Appeals are directed against the order passed by the learned Single Judge setting aside the order of the Labour Court, Madurai, dated 15.04.2010.

2.Heard the learned counsel appearing on either side and perused the materials placed before this court.

3.The short facts leading to the filing of these Writ Appeals are as follows:

The appellants, who are the workmen, had challenged the order of termination and initiated Conciliation Proceedings before the Labour Court, Madurai under Section 2-A of the Industrial Disputes Act. In the claim statements, it has been categorically stated by them that they were appointed in the first respondent Transport Corporation through the second respondent/TEXCO, which is a Government of Tamil Nadu Undertaking. As they were terminated, the appellants have sought for reinstatement of service. The conciliation process also failed.

4.When the matter was taken up before the Labour Court, Madurai, it was alleged by the appellants that they were all employed directly by the State Transport Corporation and their termination was illegal. However, the Labour Court had decided their claim stating that they were never employed by the Management of the first respondent Transport Corporation and the employment of the appellants is pursuant to the agreement between the first and second respondents. A perusal of the order issued by the State Transport Corporation, dated 02.05.1997, reads as follows:



கடிகத்தின் தேனி கிளையில் சென்று தற்காலிகமாக பணிப,ரிய,மாறு அறிவ,றுத் தப் படுகிறது."

A reading of the above order goes to show that the appellants were only members of the second respondent Corporation and based on the agreement entered between the second respondent with the first respondent, the appellants were directed to discharge their service temporarily with the first respondent Corporation.

5.The Labour Court, after considering the evidence, passed a common award, finding that they were directly employed by the first respondent/State Transport Corporation and their termination from service was illegal and hence, ordered for reinstatement of the appellants into service with continuity of service along with payment of 25% of back-wages. The first respondent/Transport Corporation and the workmen had separately challenged the award as well as the denial of 75% of the back-wages to the workmen respectively. In the above back-drop, it has to be decided as to whether the appellants herein were directly employed by the first respondent/Transport Corporation

6.It is an admitted fact that all the appellants were members of the second respondent Corporation(in short 'TEXCO'). There was an agreement entered into between the first respondent/Transport Corporation and TEXCO/second respondent herein. Pursuant to the above said agreement, appellants were sent to various places of the Tamil Nadu State Transport Corporation for work. It is the specific case of the first respondent Transport Corporation that they were all only direct labourers of the second respondent and they were never directly employed by the first respondent/Tamil Nadu State Transport Corporation (Madurai) Limited. In fact, it is found that the salary of the appellants were never directly paid by the first respondent Transport Corporation, but it was disbursed through the second respondent Corporation, as per the agreement between them. As found earlier, even in the claim statements, the appellants are stated that they were all members of the second respondent/Corporation, as contract labourers.

7.The learned Single Judge has also found that in the Conciliation Report submitted by the Labour Court, it has been found that these workmen were not directly employed by the first respondent/Tamil Nadu State Transport Corporation. For the above said reason, the learned Single Judge has also held that when there is no direct employment, the first respondent/The Tamil Nadu State Transport Corporation cannot be compelled to reinstate the appellants with back-wages at 100%

8.The learned counsel, who appeared for the appellants, also was unsuccessful in demonstrating that the appellants were directly employed by the first respondent/Tamil Nadu State Transport Corporation.



9. In the light of the above discussions and findings, the judgment of the learned Single Judge does not warrant any interference by this Court and hence the same is confirmed.

10. In the result, all these Writ Appeals stand dismissed. No costs.

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Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

vsn

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.

To

1. The Management,
Tamil Nadu Transport Corporation,
Madurai -Division, Bye-Pass Road,
Madurai.
2. The Tamil Nadu Ex-Service Men Corporation Limited,
Major Parameswaram Memorial Buildings,
West Mada Street, Srinagar Colony, Saidapet,
Chennai-15.
3. The Labour Court, Madurai.

1CC TO MR. T. LAJAPATHI ROY, ADVOCATE SR 12431
1CC TO THE SPL GOVT PLEADER SR 12498

TR - 06/05/2021 - 7P/6C