



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2021

C O R A M

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THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No.23559 of 2015
and
M.P. (MD) No.1 of 2015

The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Pudukkottai Region,
51/1, Pillai Thanneer Pandal,
Thirumayam Road,
Pudukkottai-622 001.

... Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
Chennai-600 006.

2.K.Ravindran

...Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent herein dated 09.07.2014 in A.P.No.466 of 2012 and quash the same.

For Petitioner	:	Mr. D.Sivaraman
For Respondent 1	:	Mr. Karuppasamy Government Advocate
For Respondent 2	:	No Appearance

ORDER

(through video conference)

Heard Mr. D.Sivaraman, Learned Counsel for the Petitioner and Mr. M.Karuppasamy, Learned Government Advocate for the First Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. Though the Second Respondent has been served, he has neither appeared in person nor through counsel in this Writ Petition.

Second Res
Respondent

தமிழக/புது/சது/123/5567 dated 10.07.2012 had been despatched by

Court in ***State of Punjab -vs- Khemi Ram*** (AIR 1970 SC 214), where it

person concerned the authority



making such order would be in a position to change its mind and modify it if it thought fit. But once such an order is sent out, it goes out of the control of such an authority, and therefore, there would be no chance whatsoever of its changing its mind or modifying it. In our view, once an order is issued and it is sent out to the concerned Government servant, it must be held to have been communicated to him, no matter when he actually received it. We find it difficult to persuade ourselves to accept the view that it is only from the date of the actual receipt by him that the order becomes effective. If that be the true meaning of communication, it would be possible for a Government servant to effectively thwart an order by avoiding receipt of it by one method or the other till after the date of his retirement even though such an order is passed and despatched to him before such date. An officer against whom action is sought to be taken, thus may go away from the address given by him for service of such orders, or may deliberately give a wrong address and thus prevent or delay its receipt and be able to defeat its service on him. Such a meaning of the word 'communication' ought not to be given unless the provision in question expressly so provides."

It could be inferred from the principles laid down in that decision that it would suffice for the employer to show that he had promptly despatched the order and its actual receipt by the addressee was immaterial. In the present case, the Petitioner cannot be faulted for the failure of the Second Respondent to collect the order No. தௌக/புது/சது/123/5566 dated 10.07.2012 after intimation from the post office had been given to him.

6. In that view of the matter, the impugned order dated 09.07.2017 in A.P.No.466 of 2012 is set aside and it shall be treated that the First Respondent has been granted approval under Section 33(2)(b) of the Act to the Petitioner for the termination of the Second Respondent. Though obvious, it is made clear that no view has been expressed by this Court on the correctness or otherwise of the merits of the rival contentions of the parties on the termination of the Second Respondent from service and that the Second Respondent is not precluded from working out his remedies to impeach the order of termination before the proper forum in the manner recognized by law (including resort to complaint under Section 33-A of the Act, if available), and that the period from the date of termination till the date on which certified copy of this order is made ready by the Registry shall be excluded for the purpose of computation of limitation in that regard.



7. In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (P&A)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

The Special Deputy Commissioner of Labour,
Chennai-600 006.

Copy to

The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Pudukkottai Region,
51/1, Pillai Thanneer Pandal,
Thirumayam Road,
Pudukkottai-622 001.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-17021[F] dated 22/04/2021)

+1 CC to M/s.SPL GP (SR-17142[F] dated 22/04/2021)

W.P. (MD) No.23559 of 2015
21.04.2021

KB(18.06.2021) 4P 5C