



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2021

CORAM :

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THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.21037 of 2021

M.Leo Joseph Kennady

Petitioner

Vs.

The Branch Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd,
Pudukottai Region,
Aranthangi Depot,
Pudukottai District.

Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to allot buses for eight hours duty at Aranthangi Depot after considering the petitioner's representation dated 15.10.2021, within the time that may be stipulated by this Court.

For Petitioner

:Mr.G.M.Xavier

For Respondent

:Mr.P.Balasubramanian
Standing Counsel

O R D E R

This writ petition is filed for a Mandamus, directing the respondent to allot buses for eight hours duty at Aranthangi Depot by considering the petitioner's representation dated 15.10.2021

2.The learned counsel for the petitioner submits that on 04.08.2016, an election was conducted on behalf of Anna Thozhirsanga Peravai, for electing office bearers for the Branch and there was a dispute between one Senthilkumar, Conductor and one Muthuraman, Branch Manager, Aranthangi. Pursuant to their dispute, a criminal case has also been registered at the instance of the said Senthilkumar, in Crime No.56 of 2018, for the offences punishable under Sections 294(b), 323, 341 and 506(i) IPC, on 06.02.2018. The petitioner was an eyewitness to the occurrence and his statement under Section 161(3) of Cr.P.C was recorded. Aggrieved over the same, the Branch Manager is providing duty for this petitioner beyond eight hours. The learned Counsel further submits that if a driver is provided with eight hours duty, nine hours rest must be provided to him. This principle has not been followed in this case. Hence, the petitioner has sent representation to the respondent on



15.10.2021 and the same was not considered till date. Therefore, the petitioner is before this Court with the present writ petition.

3.Mr.P.Balasubramanian, learned Standing Counsel who takes notice for the respondent Corporation submits that in certain cases, the Rule of eight hours cannot be strictly complied with. For example, if a person is taking a trip from Aranthangi to Chennai, it may take more than eight hours and he will be provided with sufficient rest and also there will be an alternative driver in that place. He further submits that the drivers are not compelled to work for more than eight hours. In certain cases, if the drivers are supposed to work for more than eight hours, the working hours would be calculated as 48 hours per week.

4. The learned Standing Counsel submits that Section 13 of the Motor Transport Workers Act, 1961 (Act No.27 of 1961) clearly explains the hours and limitation of employment and for better appreciation, the same is extracted as under:-

HOURS AND LIMITATION OF EMPLOYMENT

13.Hours of work -

No adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty eight hours in any week:

Provided that where any such motor transport worker is engaged in the running of any motor transport service on such long distance routes, or on such festive and other occasions as may be notified in the prescribed manner by the prescribed authority, the employer may, with the approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or forty eight hours in any week but in no case for more than ten hours in a day fifty four hours in a week, as the case may be:

Provided further that in the case of a break-down or dislocation of a motor transport service or interruption of traffic or act of God, the employer may, subject to such conditions and limitation as may be prescribed, require or allow any such motor transport worker to work for more than eight hours in any day or more than forty eight hours in any week.

5. From the above said Rule, it is clear that a person either has to work for eight hours per day or for forty eight hours in a week and sufficient rest shall be provided to all the drivers, irrespective of their cadre. Moreover, the Management is also responsible for the safety of the passengers also. Hence, the drivers are not compelled to work without providing sufficient rest.



6. Recording the aforesaid submissions made by the learned Standing Counsel appearing for the respondent Corporation, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD-I)

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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.

To

The Branch Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd,
Pudukottai Region,
Aranthangi Depot,
Pudukottai District.

+1 CC to M/s.P. BALASUBRAMANIAN, Advocate (SR-36162[F] dated 26/11/2021)

+1 CC to M/s.G.M. XAVIER, Advocate (SR-36085[F] dated 26/11/2021)

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25.11.2021

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