



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.02.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY
W.P. (MD)No.12206 of 2012

WEB COPY

R.Muthukrishnan

... Petitioner

vs

1. The Presiding Officer,
Labour Court,
Tirunelveli.

2. Palraj

3. S.Murugan

4. The Secretary to Government,
Transport Department,
Government of Tamil Nadu,
Fort St.George,
Chennai - 9.

5. The Commissioner,
Transport Department,
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 5.

... Respondents

***(R4 & R5 are Suo motu impleaded, vide Court order,
dated 02.12.2021 in W.P. (MD)No.12206 of 2012
by SSJY)***

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the order of rejection of the unnumbered I.A.. of 2012, on the file of the first respondent, dated 12.07.2012 and to quash the same and further direct the first respondent to entertain and to take necessary action on the petition filed by the petitioner pertaining to arresting the respondents 2 and 3 for willful breach of the 12(3) Settlement.

For Petitioner : Mr.K.R.Laxman
For Respondents : Labour Court for R1

Mr.K.Sathiya Singh for R2 & R3
Mr.G.Suryananth for R4 & R5
Additional Government Pleader



O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the order of rejection passed in unnumbered I.A..of 2012, on the file of the first respondent and further direct the first respondent to entertain and to take necessary action on the petition filed by the petitioner pertaining to arresting the respondents 2 and 3 for willful breach of the 12(3) Settlement.

2. The brief facts of the case are that the petitioner is a General Secretary of the Government Transport Employees Union. The allegation by the Union is that in the respondent Transport Corporation, an employee who is employed in one specified cadre/category, while working so, with the convenience and benefit of the said employee, on an undue influence, will be posted in other cadre/category, irrelevant to the post what he possess. The petitioner has stated an example, as an appointed driver, will influence the second and third respondent in one way or other and get a posting of Supervisor. The Union represented this sought of act to the Government and thereafter a clause was added in the 12(3) Settlement, dated 13.08.2013. Under Clause 12 (xiii) of the 12(3) Settlement it is stated as under:

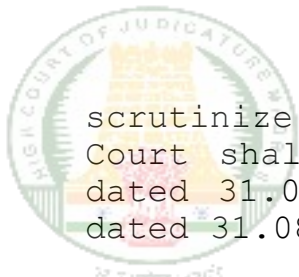
"In the Transport Corporation, an employee who is working one division, the employee should work in the said division only. No changes can be made for other division (No Category Changes)."

3. This writ petition was filed in the year 2012 and the same was pending. In the meanwhile several representations were given to the Government and the Government after taking all these allegations into consideration has passed G.O.Ms.No.328 Transport (C.1) Department, dated 31.08.2018. Under Clause 5 (e) it is stated as under:

"Drivers and Conductors should not be utilized for other duties."

4. The contention of the petitioner is that in spite of 12(3) Settlement and in spite of Government passing G.O.Ms.No.328 Transport (C.1) Department, dated 31.08.2018, the Transport Corporation is engaging the Drivers and Conductors for other duties and it is spoiling the working atmosphere of the Department. In order to substantiate such deviation it is necessary to go into the relevant records like "over time duty register" and "other duty register". If that is produced before this Court, the same cannot be scrutinized under Article 226.

5. Therefore, this Court deems it fit to remit back to the Labour Court, Tirunelveli. The Labour Court is directed to number the unnumbered I.A. The second and third respondents are directed to produce "over time duty register", "other over register" and other relevant records before the Labour Court. The Labour Court shall



scrutinize the records and thereafter pass an order. The Labour Court shall consider the issue in the light of 12(3) Settlement, dated 31.08.2005 and G.O. Ms. No. 328 Transport (C.1) Department, dated 31.08.2018.

6. With this direction, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

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 Presiding Officer,
Labour Court,
Tirunelveli.
2. The Secretary to Government,
Transport Department,
Government of Tamil Nadu,
Fort St.George,
Chennai - 9.
3. The Commissioner,
Transport Department,
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 5.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-5084[F] dated 09/02/2022)

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-5262[F] dated 10/02/2022)