



W.P.(MD)No.18430 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.18430 of 2014

and

M.P.(MD).No.1 of 2014

K.Ramasamy

... Petitioner

Vs.

1. The General Manager,
Tamil Nadu State Transport Corporation Limited,
Madurai Region,
Bye Pass Road,
Madurai.

2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Madurai Region,
Bye Pass Road,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings in O.Na.Tho/D2/Po.Na/No.1166 dated 28.08.2012 and consequential order passed by the first respondent in his proceedings in O.Na.Tho/D2/Po.Ra/CR.No.1166 dated 14.08.2014 and quash the same and consequently, direct the respondents to provide all monetary benefits as eligible by the petitioner.



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For Petitioner : Mr.S.Karthik
For Respondents : Mr.J.Senthil Kumaraiah
Standing Counsel

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent vide proceedings in O.Na.Tho/D2/Po.Na/No.1166, dated 28.08.2012 and consequential order of the first respondent, vide proceedings in O.Na.Tho/D2/Po.Ra/CR.No.1166, dated 14.08.2014 and consequently, direct the respondents to provide all monetary benefits to the petitioner.

2. When the matter was taken up for hearing, the learned Standing Counsel for the respondents raised an issue with regard to maintainability of the Writ Petition. He submitted that the order passed by the second respondent vide Proceedings in No.O.Na.Tho/D2/Po.Na/No.1166 dated 28.08.2012 and the subsequent order passed by the first respondent vide proceedings in O.Na.Tho/D2/Po.Ra/CR.No.1166, dated 14.08.2012 have to be challenged only before the Labour Court and no Writ Petition can be



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filed. In this regard, the learned Standing Counsel relied on the decision of the Hon'ble Full Bench of this Court in the case of ***P.Pitchumani vs. The Management of Sri Chakra Tyres Limited*** reported in **2004 (3) CTC 1** and also the judgment of this Court in ***W.A.(MD)No.1088 of 2021*** in the case of ***P.Ravichandran vs. The General Manager, Tamil Nadu State Transport Corporation and others***. It is relevant to extract hereunder paragraph No.14 of the judgment of the Hon'ble Full Bench of this Court reported in **2004 (3) CTC 1**:

"14. In view of what is stated supra, we hold that:

(i) only such violations under I.D. Act, which involve public duties, are amenable to writ jurisdiction under Article 226 of Constitution of India;

(ii) dismissals, transfers and other matters concerning the service conditions of employees governed by I.D. Act, have to be adjudicated only by the forums created under the said statute and not otherwise;

(iii) It is needless to mention that the disputes relating to matters not governed by I.D. Act have to be resolved only by common law Courts;

(iv) the transfers effected in these cases do not involve any public duties and involves the disputed



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questions of fact and they should be resolved only before the forums under the I.D.Act;

(v) the appellants/petitioners-employees shall be entitled to seek for reference by filing application under Section 10 of the I.D.Act within two weeks from the date of receipt of a copy of this order;

(vi) if any industrial disputes are raised, then the concerned forum, be it Labour Court or Industrial Tribunal, shall dispose of the same within four months from the date of receipt of the reference, after affording opportunity to either party;

(vii) without prejudice to the contentions of the appellants/petitioners-employees, one week time from the date of receipt of a copy of this order is given to the employees to join at the transferred places and in respect to such of those dismissed employees, for non-joining at the transferred places, the delay is condoned if they join as stipulated above and in that event, dismissal orders passed against them disappear automatically;

(viii) the respondents-managements shall sympathetically consider the payments of wages/salaries to the appellants/petitioners-employees so as to maintain the industrial peace and harmony."



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3. It is the contention of the learned counsel for the petitioner that the petitioner was not given proper opportunity during oral enquiry and punishment awarded to him was disproportionate. As per the judgment reported in *2004 (3) CTC 1*, dismissals, transfers and other matters concerning the service conditions of the employees governed by the Industrial Disputes Act, have to be adjudicated only by the forums created under the said statute and not otherwise. Therefore, the issue now raised before this Court has to be adjudicated before the Labour Court. Admittedly, the disputed questions of facts are involved and whether the order of punishment was justified or not, needs to be adjudicated, which cannot be done in a summary proceedings based on affidavits in a petition under Article 226 of the Constitution of India. For these reasons, this Court is of the considered view that the forum to adjudicate the disputes involved in this case is the Labour Court.

4. Accordingly, this Writ Petition is disposed of and the petitioner is at liberty to approach the concerned Labour Court with appropriate petition for appropriate remedy under Industrial Disputes Act in the manner



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known to law within a period of one month from the date of receipt of a copy of this order. If such dispute is raised, the respondent Transport Corporation shall not raise the ground of limitation that the claim petition has been filed belatedly. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

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