



W.P.No.2327 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2327 of 2023

T.Yesudhas

... Petitioner

Vs.

M/s.State Express Transport Corporation Ltd.,
Rep.by its Managing Director,
No.2, Pallavan Salai,
Chennai-600 002.

... Respondent

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate writ or direction in the nature of writ by Writ to call for the records of the III Additional Labour Court, Chennai in Execution Petition No.45 of 2019 dated 24.03.2020 and quash the same and consequently direct the respondent to regularize my service from 01.01.1998.



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For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.S.Natarajan,
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the III Additional Labour Court, Chennai in Execution Petition No.46 of 2019 dated 24.03.2020 and for a consequential direction to the respondent to regularize the services of the petitioner from 01.01.1998

2. The petitioner was working as a daily paid driver from 02.01.1996. The services of the petitioner was not regularized and hence, the Writ Petitions were filed before this Court and a direction was given to the respondents to regularize the services of the petitioner. Thereafter, the workers union and the management entered into a settlement under Section 12(3) of the Industrial Disputes Act. It was agreed that for those employees, who rendered 240 days of service within one year, they will be regularized.



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3. The grievance of the petitioner was that inspite of the settlement arrived at and inspite of the petitioner fulfilling the requirements, his services were not regularized. Hence, an Execution Petition was filed before the Labour Court seeking for the arrest of the Managing Director for non-compliance of the settlement reached under Section 12(3) of the Industrial Disputes Act. This Execution Petition was dismissed by the Labour Court by order dated 24.03.2019. Aggrieved by the same, the present Writ Petition has been filed.

4. Heard Mr.D.Soundar Raj, learned counsel appearing for the petitioner and Mr.S.Natarajan, learned standing counsel appearing for the respondent.

5. In the considered view of this Court, the reasoning given by the Labour Court at paragraph 12 of the order is in order and it does not require any interference. For proper appreciation, paragraph 12 of the order is extracted as follows:-

“This execution application is for the arrest of the Managing Director of the SETC for the disobedience of 12(3) Settlements. Admittedly all the three 12(3) settlements were entered by the trade union with the management of All State Transport Undertakings before Joint Commissioner of Labour (Conciliation) When the trade unions have entered into these three 12(3) settlements with the managements of the transport corporations, then for the non



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compliance of those settlements only the respective trade unions have the collective authority to question the same and not the individual workman. If any workman considers that he has not been extended with the benefits of the 12(3) settlements, then his grievance has to be individually adjudicated only in industrial disputes and not in execution petitions. If the kind of execution petitioner filed by the individual workman on the strength of the 12(3) settlements is permitted without any prior adjudication, then it would set a bad precedent to every workman to come forward with the request to arrest the Mds of their respective corporations irrespective of their union.

6. The petitioner cannot get the remedy of regularization of the services by putting the Managing Director behind the bars. The petitioner has to seek for the correct remedy based on the settlement that has been entered into by the Management and the Union. When the same was pointed out by the learned counsel for the petitioner, he submitted that an appropriate Writ Petition will be filed before this Court seeking for the remedy.

7. In view of the above, even though this Court is not inclined to interfere with the order passed by the Labour Court, liberty is granted to the petitioner to independently seek for regularization of services in the light of Section 12(3) settlement by establishing his continuous service in the respondent Corporation.



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8. This Writ Petition is disposed of in the above terms. No costs.

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Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Neutral Citation:Yes/No

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N.ANAND VENKATESH, J.

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