



W.A.No.658 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

Writ Appeal No.658 of 2021
and CMP.No.3278 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Kancheepuram Region,
1 & 2, Sekkupettai, Nadu Theru,
Kancheepuram.

.. Appellant

Vs.

1. V.Sivalingam
2. The Special Deputy Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12.03.2020 in WP.No.1011 of 2015 passed by the Single Judge of this Court.



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For appellant : Mr.M.Aswin

For respondents
for R1 : Mr.V.S.Jagadeesan
for R2 : Mr.P.Ganesan

JUDGMENT

(The Judgment of the Court was delivered by S.VAIDYANATHAN, J)

The first respondent had given consent on negotiation for settlement on 21.01.2023.

2. The learned Standing Counsel appearing for the appellant and the learned counsel for the first respondent would submit that the parties have amicably settled the issue and they have also entered into a joint memo, dated nil. The joint memo has been signed by both the parties and their respective counsel. The said consent on negotiation for settlement and joint memo are produced before this Court and the scanned copy of the same are annexed hereunder:



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தமிழ்நாடு தமில்நாடு TAMIL NADU
தேதி V. சிவலிங்கம்
21.01.2023 சிகந்திரபுரம்

15AC 232281

M. Srinivasan
M. இராஜசேகரன்.
முத்திரைத்தாள் விடுபட்டவர்கள்.
உரிமம் எண்: 7134/81/92-1.
552, காந்தி ரோடு, காஞ்சிபுரம்-1.
Kanchipuram
Date : 21.01.2023

CONSENT ON NEGOTIATION FOR SETTLEMENT

I Thiru. V. Sivalingam, Ex-Conductor, St.No.61253, Tamilnadu State Transport Corporation (Villupuram) Ltd., Kancheepuram Region, Retired on 31.07.2019. I willfully and in full subconscious mind without any compulsion from anybody do hereby given my Consent Bond for Lokadaist Settlement to be made in the Corporation Case W.A.No.658/2021 of the Hon'ble High Court, Madras follows;

I have already consent letter dated 27.12.2022 for settlement as from 10.03.2011 (date of dismissal) to 18.06.2018 (date of reinstatement in service) period from which arising out of back wages, I am ready to forgo 50% back wages to the corporation and request to settle remaining 50% back wages after

N VADIVEL
Advocate/Case Officer at Court
ROC No. 22008/2019/F2
C.No. 7/2017
No. 11/25-B, Kanchi Nagar Street
Thekkumedu
Tamil Nadu 601 301.



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... amount. I have already received a sum of Rs.1,91,537/- (Rupees One Lakh Ninety One Thousand Five Hundred and Thirty Seven Only) towards 50% + 17B of Back wages for the period from January, 2015 to June 2017 on last drawn wages and further received a sum of Rs.1,40,460/- (Rupees One Lakh forty Thousand Four Hundred and Sixty Only) towards 100% + 17B Back wages from July 2017 to May 2018 as last drawn wages and I have accepted to adjust the above 17B wages amount paid to me from the 50% back wages (i.e., since 50% back wages was forgo, the paid 17B wages of Rs.3,31,997/- (Rupees Three Lakhs Thirty One Thousand Nine Hundred Ninety Seven Only) and it will be deducted from the remaining 50% backwages payable to me.

I have accepted the above conditions and to recover the P.F. Contribution from the remaining 50% back wages and request to pay full pension and terminal benefits on the date of retirement under the Lokadalat reference of W.A.No.658/21 and accepted the terms as below;

- i) I have agreed to forgo 50% backwages and accepted to deduct the 17B wages from remaining 50% backwages and also accepted to deduct the employer P.F. Contribution from the remaining 50% back wages.
- ii) If any shortfall arises in employer P.F. Contribution I hereby agreed to pay the same from terminal benefits.

Since the dispute was settled by Compromise in the Lokadalat of the Hon'ble High Court, Madras, I cannot claim any other future further claims from management.



Before me
N.VADIVEL
Advocate/Commissioner of Courts
ROC No. A2023/2015/F2
C.No. 7/2017
No.1185 B, Kamarajar Street
TRT, Lokadalat,
CHENNAI-600 011.
Tel. 9443039400.



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**IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Appellate Jurisdiction)**

W.A.No.658/2021

The Managing Director
Tamilnadu State Transport Corporation
(Villupuram) Limited,
Kancheepuram Region
No. 1 & 2 Sekkupettai, Nadu Thera,
Kancheepuram

...Petitioner

- Versus -

1. Thiru.V.Sivalingam,
S/o.Vadivel,
No.1/1, Old No.2/12,
Varadharajapuram Street,
Little Kancheepuram
Pin code - 631 501.

2. The Special Deputy Commissioner of Labour (Conciliation)
D.M.S.Compound,
Chennai 600 006

...Respondents

JOINT MEMO FILED BETWEEN TWO PARTIES

1. It is submitted that Thiru.V.Sivalingam, Ex.Conductor, Sl.No.61253 was dismissed from his service on 10.03.2011 for absent and for this Approval Petition AP.No.110/11 was dismissed by the 2nd Respondent on 18.04.2013.

2. It is submitted that If Approval Petition is not granted u/s.33(2)(b) of the I.D. Act the order of dismissal becomes ineffective from the date it was passed and it follows that the employee is eligible for reinstatement in service with continuity of service with backwages and all other attendant benefits.

3. It is submitted that Aggrieved by AP.No.110/11 order dated 18.04.2013, the Corporation filed Writ Petition in WP.No.1011/2015 its interim order Payment of Last drawn wages u/s.17B dated 16.06.2017 & it was complied by the corporation.

...contd.,



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4. It is submitted that the Writ Petition in WP.No.1011/2015 final order dated 12.03.2020 that the Management has failed to produce documentary evidence to show that the petitioner is ineligible to opt for VRS and without deciding the application for VRS, Proceeded after a period of four months, by issuing a charge memo. In so far as that finding of the authority is concerned not find any discrepancy and observed that the employee would not be entitled to salary for the period of unauthorized absence and disposed the Writ Petition.

5. It is submitted that the corporation has challenged the above Writ Order and filed Writ Appeal and interim stay ordered in W.A.No.658/2021 dated 09.04.2021 and now it was referred for Lokadalat conciliation.

6. It is submitted that in the above case as the consent letter dated 27.12.2022 given by Thiru.V.Sivalingam as from 10.03.2011 date of his dismissal to 18.04.2013 date of order in approval petition in A.P.No.110/2011 arising out of backwages, Thiru.V.Sivalingam, S/o.Vadivel is ready to forgo 50% backwages to the corporation and request to settle remaining 50% backwages after deducting the pension contribution amount.

The Date of Dismissal of the employee	:	10.03.2011
The Date of order in approval petition in A.P.No.110/2011	:	18.04.2013

7. It is submitted that Thiru. V.Sivalingam accepting the above conditions and to recover the P.F. Contribution from the remaining 50% backwages and to pay Full Pension and terminal benefits on his retirement as per the order of the approval petition in A.P.No.110 / 2011 under the Lokadalat reference of W.A.No.658/21 with copy enclosure of Thiru.V.Sivalingam Letter dated 27.12.2022 ; - and

..contd.,



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3.

It is therefore submitted that both the parties are accepting to the terms as below:-

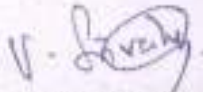
- i) That the workman Mr.V.Sivalingam has agreed to forgo 50% backwages and also accepted to deduct 17B wages from remaining 50% backwages and also accepted to deduct the employer P.F. Contribution from the remaining 50% backwages.
- ii) If any shortfall arises in Employer P.F. Contribution the workman is hereby agreed to pay the same from terminal benefits.

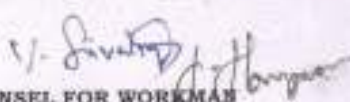
As the dispute was settled by Compromise, the Workman Cannot claim any other further claims from management.

As per the above terms this Joint Memorandum is being filed.

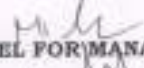
8. It is further submitted that the above terms may be recorded and the W.A.No.658/21 may be closed.

It is therefore prayed that this Hon'ble Court may be pleased to record the above memo and thus render justice.


RESPONDENT EMPLOYEE


COUNSEL FOR WORKMAN


PETITIONER MANAGEMENT
Managing Director,
Tamil Nadu State Transport Corporation,
(Vilupputur) Ltd.,
Vilupputur - 605 802.


COUNSEL FOR MANAGEMENT

18/04/2023
18/04/2023



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3. The learned Standing Counsel appearing for the appellant would submit that the compromise would be implemented within a period of four weeks.

4. The consent on negotiation for settlement, dated 21.01.2023 and the joint memo filed between two parties, dated nil are recorded. The appeal is disposed of in terms of the said joint memo. The joint memo shall form part of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

5. In case, the benefit of settlement is not extended to the first respondent before 10.06.2023, it is open to the employee to make a complaint under Section 29 of the I.D. Act, 1947 against the persons falling under Section 32, *ibid.*, and the Government must sanction prosecution, which shall be tried in accordance with law.

(S.V.N.J.) (R.K.M.J.)
18.04.2023

Speaking Order: Yes / No
pvs



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To
The Special Deputy Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.



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S.VAIDYANATHAN, J
and
R.KALAIMATHI, J

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