



W.P.Nos.11940 of 2006, etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.11940, 36894, 36893, 36892 of 2006 and 23519 to 23525 of
2010 and MP.No.1 of 2010 & M.P.No.2 of 2010 (6 Nos.)

WP.No.11940 of 2006

A.Ubayadullah

... Petitioner

Vs.

- 1.Tamilnadu Ex-Servicemen's Corporation Limited,
Rep. by its Chairman-cum-Managing Director,
Major Parameswaran Memorial Building,
West Mada Street, Chennai 600 015
- 2.Tamilnadu Metropolitan Transport Corporation Limited,
Rep. by its Managing Director,
Pallavan House, Anna Salai, Chennai-2
- 3.The Presiding Officer,
First Additional Labour Court, Chennai 600 104
- 4.The State of Tamilnadu,
Rep. by its Secretary, Labour & Employment,
Fort St.George, Chennai 600 009

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records from the third respondent Labour Court relating to the Common Award dated 05.10.2005 in ID.No.435 to 441 of 2004 and quash the award in ID.No.440 of 2004 insofar as non granting of reinstatement with backwages, continuity of service, consequential and other attendant



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benefits and consequently direct the first respondent TEXCO to reinstate the petitioner concerned in ID.No.440 of 2004 in service with backwages, continuity of service, consequential and other attendant benefits.

WP.Nos.11940, 36892 to 36894 of 2006

For Petitioner : Ms.C.S.Monika

For Respondents

For R1 : Mr.C.K.Chandrasekar

For R2 : Mr.A.Vinothraj

R3 : Labour Court

For R4 : Dr.T.Seenivasan
Special Government Pleader

WP.Nos.23519 to 23525 of 2010

For Petitioner : Mr.C.K.Chandrasekar

For Respondents

R1 : Court

For R2 : Mr.A.Vinothraj

For R3 : Ms.C.S.Monika



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COMMON ORDER

These writ petitions have been filed challenging the common award dated 05.10.2005 passed in various Industrial Disputes, thereby ordered compensation in lieu of reinstatement.

2. Heard, the learned counsel appearing on either side.

3. In respect of writ petitions in W.P.Nos.11940, 36892, 36893, 36894 of 2006, the first respondent was formed on 28.01.1986 for the purpose of providing employment to the Ex-Servicemen and their dependents. All the petitioners are dependents of Ex-Servicemen. All the petitioners were denied employment and as such, they approached this Court in WP.No.692 of 1996. This Court disposed of the writ petition and observed that the only remedy available to the petitioners is raising Industrial Dispute. Therefore, they raised Industrial Dispute before the Conciliation Officer and the same was failed. On the said report, it was referred to Labour Court.



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3.1 On perusal of records, the petitioners were employed to sell monthly passes to the public and they had worked for 21 days in a month. They have to collect the passes from the first respondent carrying it in the vehicle belonging to the first respondent and to deliver it in the respective counters and commence the work from the first of every month. Due to pressure of the work, the petitioners were asked to work for 23 days. The second respondent is the employer of the petitioners, who are working under the second respondent as contract labour. In fact, they were paid only commission. Initially, 25 paise was paid to the first respondent for the sale of every season ticket by way of commission and the workmen worked under the control and supervision of the first respondent. Therefore, the contract between the first and second respondents is genuine and bonafide. Ex.M12 revealed that the petitioners are employed as Counter Clerks by the first respondent and the second respondent has given contract to the first respondent. The second respondent has not issued any appointment order or termination order. But they were engaged by the first respondent under the control and supervision of the first respondent. The appointment order issued to



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to one of the petitioners by the first respondent was marked as Ex.W4.

However, they were stopped from work from 01.10.1995. Therefore, there is a violation under Section 25F of Industrial Disputes Act. As such, the Labour Court rightly awarded compensation in lieu of any reinstatement into service and the writ petitions are liable to be dismissed.

4 Insofar the writ petitions in WP.Nos.23519 to 23525 of 2010, they have been filed by the first respondent in in W.P.Nos.11940, 36894, 36893, 36892 of 2006 challenging the awarding of compensation in the same common award dated 05.10.2005 by the Labour Court.

4.1 However, on perusal of the impugned order, the Labour Court has clearly mentioned that evidently there is no scope for TEXCO to accommodate the petitioners in the jobs of Counter Clerks and therefore, granting compensation to the petitioners therein will meet the ends of justice. As such, this Court is of the view that the Labour Court rightly awarded compensation in lieu of reinstatement into service. Accordingly, these writ petitions are also liable to be dismissed.



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5. In view of the above, all the writ petitions stand dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.Chairman-cum-Managing Director,
Tamilnadu Ex-Servicemen's Corporation Limited,
Major Parameswaran Memorial Building,
West Mada Street, Chennai 600 015
- 2.Managing Director,
Tamilnadu Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai, Chennai-2
- 3.The Presiding Officer,
First Additional Labour Court, Chennai 600 104
- 4.Secretary,
The State of Tamilnadu,
Labour & Employment,
Fort St.George, Chennai 600 009
5. The Government Advocate,
High Court, Madras.

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