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W.P.Nos.15809 & 8234 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.15809 & 8234 of 2020

and

WMP.Nos.9833 & 19651 of 2020 and 27006 of 2023

W.P.No.15809 of 2020:

Chennai Metro Rail Limited,
Poonamallee High Road,
Koyambedu, Chennai – 600 107.
Rep. by its Chief General Manager

...Petitioner

Vs.

1. The Additional Commissioner of Labour,
(Certifying officer under the Industrial Employment
(Standing Orders) Act, 1946),
Teynampet, Chennai – 600 006.

2. Chennai Metro Rail Limited Employees Union,
No.16, 18th Street, Shakthi Nagar,
Nerkundram, Chennai – 600 017.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records connected with the proceeding in D/1385/2019 and quash the order dated 02.09.2020 made by the Additional Commissioner of Labour, the Certifying officer under Industrial Employment (Standing Orders) Act, 1946.



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For Petitioner : Mr.Sanjay Mohan for
M/s.S.Ramasubramanian and Associates

For Respondents : Mr.S.John J.Raja Singh, AGP, for R1
: Mr.V.Ajoy Khose, for R2

W.P.No.8234 of 2020:

CMRL Employees Union,
Rep. by its General Secretary,
No.27, Mosque Street, Chepauk,
Chennai – 600 005.

...Petitioner

Vs.

1. Government of India,
Ministry of Housing and Urban Affairs,
Rep. by its Secretary and Chairman for Chennai Metro Rail Limited,
Nirman Bhawan, Maulana Azad Road,
New Delhi – 110 011.
2. Government of Tamilnadu,
Rep. by its Principal Secretary,
Planning, Development and Special Initiatives Department,
Fort St. George, Chennai – 600 009.
3. Chennai Metro Rail Ltd.,
Rep. by its Managing Director,
Admin Building, CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai - 600 107.
4. The Director (Finance),
Chennai Metro Rail Ltd.,
Admin Building, CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai - 600 107.



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5. The Director (Projects) & (Systems and Operations) - In Charge
Chennai Metro Rail Ltd.,
Admin Building, CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai - 600 107.
6. The Director (Systems & Operations) Chennai Metro Rail Ltd.,
Admin Building, CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai - 600 107.
7. The Chief General Manager (HR) Chennai Metro Rail Ltd.,
Admin Building, CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai - 600 107. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring that the CMRL CDA Rules are not applicable to the members of the petitioner union; that all the disciplinary proceedings initiated, concluded and which are pending against the members of their union, based on the CMRL CDA Rules, are illegal, without jurisdiction and unconstitutional and forebear the Respondents and their officials from giving effect to the punishments already imposed and from proceeding further with the pending disciplinary proceedings, based on and in terms of CMRL CDA Rules, for any misconduct other than the misconducts prescribed in the Tamilnadu Model Standing Orders and from imposing any punishments to their members which are not provided and prescribed in the Tamilnadu Model Standing Orders and without following the procedures contemplated in the Tamilnadu Model Standing Orders, Award costs.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Dr.G.Babu, for R1
: Mr.S.John J.Raja Singh, AGP, for R2
: Mr.Sanjay Mohan for
M/s.S.Ramasubramanian & Associates, for R3-7



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COMMON ORDER

Since the issue involved in both the Writ petitions are interconnected, they are heard together and disposed of by way of this common order.

2. For brevity, the petitioner in W.P.No.8234 of 2020 is hereinafter referred to as the union and the petitioner in W.P.No.15809 of 2020 is hereinafter referred to as the management.

3. The facts leading to filing of these Writ petitions could be summarised from the submissions made by the learned counsel appearing on either side and, therefore, this Court is not entering into the repetitive act of detailing the averments made by the respective petitioner in their petitions.

4. Learned counsel appearing for the management submitted that the union sent a letter to the Additional Commissioner of Labour stating that the management has not taken any steps for certifying the standing orders under the Industrial Employment (Standing Orders) Act (in short 'Act') and also filed a complaint stating that the management is not following the Model Standing order in the absence of the certified standing order and is acting in



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contravention of the provisions of the said Act. Upon receipt of such complaint, the Additional Commissioner of Labour issued summons to the management, for which, the management sent a letter stating that they have applied for exemption from the application of the Standing Orders Act to them. After contest, the Additional Commissioner of Labour, without considering the explanation submitted by the management and without considering any of the facts, had passed the present impugned award dated 02.09.2020, refused to decide the applicability of the certified standing orders and to await the notification for exemption from the Government. However, the learned counsel appearing for the management restricted the prayer and submitted that, it would suffice, if this Court issues direction to the Additional Commissioner of Labour to decide whether the certified standing orders are applicable to the members of the union before deciding the main issue raised by the Union including the issues relating to whether the members of the union are workmen or not in terms of the certified standing order within a reasonable time that may be fixed by this Court.

5. Per contra, the learned counsel appearing for the union submitted that, as the members of the union have participated in the strike, in order to



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wreck vengeance, the management had initiated disciplinary action as against the workmen, which is contrary to and in violation of the agreed advice dated 01.05.2019 and forcing the workmen to vacate the quarters allotted to them as a measure of punishment for misconduct when they have already initiated disciplinary proceedings separately, that too without obtaining necessary permission from the Managing Director, Chennai Metro Rail Limited, which act is contrary to Section 33(1)(a) of the Industrial Disputes Act, 1947 (in short 'ID Act'). Further, once the dispute is raised, the management is bound to maintain *status quo* with regard to the conditions of service till the matters are settled. Whiles, initiating disciplinary action and imposing punishments under the CMRL CDA rules when the workmen are governed by the standing orders is illegal and without jurisdiction, as the same is not applicable to the members of the union and if at all any action to be taken against the members of the union, the same can be taken only under the Standing Orders Act and the Model Standing Orders that too only for the misconducts enumerated in the Tamilnadu Model Standing Orders and only the punishments prescribed thereunder alone can be imposed, that too, only after conducting proper enquiry. Therefore, the entire disciplinary proceedings initiated against the



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members of the union is wholly unsustainable. He further submitted that, no exemption order or notification was issued by the Tamil nadu Government and therefore, in the absence of such exemption, action has to be taken only under the Standing Orders Act and the Model Standing Orders and not under the CMRL CDA Rules and the management, without holding any enquiry imposed a punishment of increment cut for 6 years and 4 years, which is highly disproportionate.

6. On the above said contentions, heard learned Additional Government pleader and the learned counsel appearing for the 1st respondent in W.P.No.8234 of 2020 and perused the materials available on record.

7. Though very many grounds have been raised and arguments were advanced by the learned counsel on either side, however, in view of the limited request made by the learned counsel appearing for the management, which is not objected to by the learned counsel appearing for the union, this Court, without expressing any opinion on the merit of the case, issues direction to the Additional Commissioner of Labour to decide the main



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issue raised by the union including the preliminary issue raised by the management with regard to applicability of the certified standing order and conclude the entire proceedings within a period of twelve weeks from the date of receipt of a copy of this order, without adjourning the matter beyond seven working days at any point of time.

8. Accordingly, these Writ Petitions stand disposed of with the aforesaid directions. No costs. Consequently, connected Miscellaneous petitions are closed.

22.09.2023

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To:

1. Government of India,
Ministry of Housing and Urban Affairs,
Rep. by its Secretary and Chairman for Chennai Metro Rail Limited,
Nirman Bhawan, Maulana Azad Road,
New Delhi – 110 011.
2. Government of Tamilnadu,
Rep. by its Principal Secretary,
Planning, Development and Special Initiatives Department,
Fort St. George, Chennai – 600 009.

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3. Chennai Metro Rail Ltd.,
Rep. by its Managing Director,
Admin Building, CMRL Depot, Poonamallee High Road,
Koyambedu, Chennai - 600 107.
4. The Director (Finance),
Chennai Metro Rail Ltd.,
Admin Building, CMRL Depot, Poonamallee High Road,
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5. The Director (Projects) & (Systems and Operations) - In Charge
Chennai Metro Rail Ltd.,
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