



W.A. No.2763 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

and

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A. No.2763 of 2023 and C.M.P. No.23204 of 2023

1 N. Selvaraj

2 M. Rajeseh

3 S. Sudarmani

4 T.D. Sivakumar

5 K.B. Anbu

6 M. Sasikumar

Appellants

v

1 IT Expressway Ltd.

represented by its Managing Director

Tamil Nadu Road Development Company Ltd.

No.171, II Floor, Tamil Nadu Maritime Board Building

South Kesavaperumal Puram

Pasumpon Muthuramalingam Road

(Near Greenways Road MRTS Station)

Raja Annamalai Puram, Chennai 600 028

2 TNRDC Company Ltd.

represented by its Chairman & Managing Director

Tamil Nadu Road Development Company Ltd.

No.171, II Floor, Tamil Nadu Maritime Board Building

South Kesavaperumal Puram

Pasumpon Muthuramalingam Road

(Near Greenways Road MRTS Station)

Raja Annamalai Puram

Chennai 600 028



W.A. No.2763 of 2023

3

The Government of Tamil Nadu
represented by its Secretary
Department of Highways & Minor Port
Fort St. George
Chennai 600 009

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the
order dated 22.08.2023 passed in W.P. No.23776 of 2021

For appellants	Mr. V. Prakash, Sr. Counsel for Mr. T. Ramkumar
For RR 1 & 2	Mr. P.S. Raman, Sr. Counsel Mr. M. Sivavarthan
For R3	Mr. A. Selvendran Special Government Pleader

JUDGMENT

(delivered by S. VAIDYANATHAN, J.)

For the sake of convenience and clarity, the parties will be referred to
as per their rank in this writ appeal.

2 The succinct facts giving rise to this writ appeal are as under:

2.1 The appellants were working as Plaza Supervisors in the first
respondent Company and they were suddenly terminated from service in
pursuance of the policy decision of the State and Central Governments.



W.A. No.2763 of 2023

the Single Bench, seeking a writ of mandamus directing the respondents to ensure their rehabilitation by way of providing them alternative jobs due to cessation of operation of toll booths in the Old Mahabalipuram Road (OMR).

2.2 The Single Bench, based on the submission made by the learned Senior Counsel for the appellants that it would suffice if the first respondent is directed to consider the claim of the appellants seeking alternative job, without expressing any opinion on the merits of the case, disposed of the writ petition *vide* order dated 22.08.2023, directing the first respondent accordingly and to pass appropriate orders within a period of four weeks, besides extending the order of *status quo* granted earlier. Challenging the said order dated 22.08.2023, this writ appeal is filed by the writ petitioners.

3 Mr. V. Prakash, learned Senior Counsel appearing for the appellants contended that:

- in a similar situation, when employees numbering 159 were sought to be disengaged, the Supreme Court, in C.A. No.3801 of 1986, which was filed against the judgment rendered in the writ petition in W.P. No.583 of 1986, directed the State Government, *vide* order dated 20.11.1987, to ensure that the employees were provided with alternative employment;



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- the appellants have rendered 8-15 years of service and disengaging them suddenly is violative of the provisions of the Industrial Disputes Act, 1947;
- when vacancies are available, disengaging the appellants is impermissible and they should be accommodated in other toll plazas.

4 *Per contra*, Mr. P.S. Raman, learned Senior Counsel appearing for respondents 1 and 2, made the following submissions:

- the writ petition itself is not maintainable and the appellants should have moved only the appropriate forum, instead of invoking Article 226 of the Constitution of India;
- pursuant to the interim relief granted by the Single Bench, the appellants were allowed to continue and no vacancy is available after 30.09.2023; however, there is a toll plaza at Navalur, which is likely to be closed by 31.11.2023 and in case, the appellants are allowed to continue in the Navalur Toll Plaza, they will lose their employment after 30.11.2023;
- the appellants have no right to continue in employment, more so, when some of the Highways have been taken over by the National Highways Authority of India; and

- there are two private entities operating in the Outer Ring Road



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and it is open to the appellants to take up employment there, though he cannot guarantee that the private entities would take them in service and it is for the appellants to persuade them to give them employment.

5 In a riposte, Mr. Prakash submitted that there is an inter-office communication from the Senior Plaza Supervisor dated 30.09.2023 addressed to the H.R. Department, as per which, due to termination of four Plaza Supervisors at the East Coast Road, it is difficult to manage the toll plaza activities with only one Supervisor and in order to manage the day-to-day activities, they require five Plaza Supervisors who need to be deployed on urgent basis from the first shift of 30.09.2023 onwards.

6 It has been further contended by Mr. Prakash that in terms of Section 25-F and G, *ibid.*, when there are vacancies, preference should be given to the employees who have been terminated from service.

7 In reply, Mr. Raman reiterated his earlier stand that the toll plaza at Navalur is also likely to be closed by the end of next month and that it would be difficult for the respondents 1 and 2 to continue with the appellants in service.



8 Though Mr. Prakash has contended that there is violation of Sections 25-F and G, *ibid.*, and he will make National Highways Authority of India as a party respondent, we cannot allow the scope of the writ petition to be enlarged. However, in the light of the communication dated 30.09.2023, it is limpid that the services of Plaza Supervisors are required and hence, as an *ad hoc* arrangement, the appellants may be continued with effect from tomorrow (17.10.2023) in the Navalur Toll Plaza, till the same is closed.

9 In such perspective of the matter, it is open to the appellants to make a request to the two operators at Outer Ring Road to accommodate them and we cannot compel either the first respondent or the private operators to provide employment to the appellants, more so, when they have already been terminated. We reiterate that our direction in the preceding paragraph to the respondents 1 and 2 to accommodate the appellants in the Navalur Toll Plaza is only an interim arrangement in order to give a quietus to this writ appeal and in case, the appellants are disengaged or divested of duties due to closure of the Navalur Toll Plaza, it is open to them to agitate their grievance in the manner known to law and we cannot grant the broader relief sought by the appellants.



W.A. No.2763 of 2023

WEB COPY10

Though it has been contended by Mr. Prakash that the appellants have not been paid wages for seven days, we are not inclined to observe anything with regard to the said submission and it is open to the appellants to work out their remedy, if so advised.

This writ appeal stands disposed of in the above terms. Costs made easy. Connected C.M.P. is closed.

(S.V.N., J.) (K.R.S., J.)
16.10.2023

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W.A. No.2763 of 2023

W.A. No.2763 of 2023

WEB COPY

S. VAIDYANATHAN, J.
and
K. RAJASEKAR, J.

This appeal was disposed of on 16.10.2023. However, the learned counsel on record for the appellant, in view of a subsequent development, by way of mentioning on 19.10.2023, made a request to have this matter listed under the caption “for being spoken to” and that is how, this matter has been listed today under the said caption.

2 Normally, by means of a C.M.P. or by getting a matter listed under the caption “for being spoken to”, an order or a judgment cannot be reviewed. However, with the consent of the parties on either side, this matter is taken up only for the limited purpose of taking into account the subsequent development that had taken place, thereby, giving a quietus to the matter by enabling the appellants to have their grievance redressed by the Government.

3 Though it has been contended by Mr. V. Prakash, learned Senior Counsel for the appellants that the first respondent is a wing of the Government and it has been disputed by Mr. P.S. Raman, learned Senior Counsel appearing for the respondents 1 and 2 that the first respondent is only



a private entity, without expressing our opinion on the contention of the learned Senior Counsel on either side, this Court places on record, the communication dated 27.10.2023 addressed by the second respondent to the first respondent, which is brought to the notice of this Court by Mr. P.S.Raman, wherein, it is stated that the second respondent has accepted the first respondent's request for supervision role of Chennai Outer Ring Road (CORR) Toll Operations on a contract basis for a period of 11 months effective 01.11.2023 or till the time of toll collection/supervision agency appointment is in live with the Government of Tamil Nadu, whichever is earlier.

4 On the basis of the aforesaid communication, Mr. P.S. Raman submitted that the appellants can be taken by the first respondent till the aforesaid period. However, it is also his submission that further employment of the appellants cannot be assured and it all depends upon the policy decision of the Government.

5 In a riposte, Mr. V. Prakash submitted that in TANSI Structurals case, more than 130 employees were provided with alternative employment in different Corporations and that similar yardstick will have to be followed in



W.A. No.2763 of 2023

rendered with the first respondent, as it would now be difficult for them to search for another employment, more so, when all of them have school going children.

6 Considering the rival submissions and in the light of the communication dated 27.10.2023 addressed by the second respondent to the first respondent, it is directed that the appellants be provided with job in CORR Toll Operations for a period of 11 months from today or till the time of toll collection/supervision agency appointment is in live with the Government of Tamil Nadu, whichever is earlier. In the meanwhile, there is no bar for the appellants to approach the Government seeking employment/alternative employment and in the event of the appellants approaching the Government, the Government shall consider and pass orders in accordance with law, as expeditiously as possible, preferably within a period of 15 days from the date of receipt of request in writing and inform the decision taken to the appellants.

7 It was represented by Mr. Raman that the appellants have preferred a writ petition being W.P. No.29728 of 2023 challenging the rejection of their request seeking alternative employment and in the said writ petition, a Single Bench, vide order dated 13.10.2023, has directed the Registry to tag the said writ petition along with this writ appeal for hearing by



W.A. No.2763 of 2023

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Now that this writ appeal has been disposed of on 16.10.2023, in case, the Hon'ble Chief Justice has passed orders for listing of W.P. No.29728 of 2023 before this Bench, appropriate orders will be passed in W.P. No.29728 of 2023 based on the judgment rendered in this writ appeal.

(S.V.N., J.) (K.R.S., J.)
01.11.2023

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W.A. No.2763 of 2023

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To

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W.A. No.2763 of 2023