



W.A. No.3099 of 2023 *etc.* batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A. Nos.3099, 3103, 3106-3108, 3111-3113, 3115-3137, 3139-3159/2023
(52 writ appeals)
and
connected C.M.Ps.

W.A. No.3099 of 2023:

The Managing Director
Tamil Nadu State Transport Corporation, Salem – Ltd.
12, Ramakrishna Salai
Salem 636 007

Appellant

v

1 The Presiding Officer
Labour Court, Salem

2 C. Sivakumar

Respondents

Prayer in W.A. No.3099 of 2023:

Writ Appeal preferred under Clause 15 of the Letters Patent challenging
the order dated 18.07.2023 passed in W.P. No.11884 of 2014.

For appellant in Mr. Anand Gopalan
W.A. No.3099 of 2023 for Mr. G. Anandakrishnan

R1 in
W.A. No.3099 of 2023 Labour Court

For R2 in
W.A. No.3099 of 2023 Mr. V. Ajoy Khose



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COMMON JUDGMENT

(delivered by S. VAIDYANATHAN, J.)

These writ appeals arise from the common order dated 18.07.2023 passed by a Single Bench of this Court in W.P. Nos.5507 of 2014, *etc.* batch.

2 Inasmuch as all these writ appeals emanate from a common order of the Single Bench, they are considered and decided by this common judgment.

3 The succinct facts could be stated thus:

3.1 Since the workmen (50 in number) in these appeals, who were taken in service as casual labourers/daily rated employees by the Tamil Nadu State Transport Corporation, Salem, were not given any benefit and were also deprived of employment, they raised industrial disputes in 2009 before the Labour Court, Salem, which, by a common award dated 02.08.2013, partly allowed the industrial disputes directing that when the Transport Corporation makes fresh appointment, the workmen herein, irrespective of their age, should be given priority, provided they possess the required physical fitness, educational qualification and licence, and appointed. As far as backwages is



concerned, the Labour Court, on the principle of “no work–no pay”, held that the workmen are not entitled to the same.

3.2 Assailing the aforesaid common award of the Labour Court, insofar as, it pertains to the direction given to the Transport Corporation to give priority to the workmen herein whenever fresh appointments are made, the Transport Corporation filed a batch of 50 writ petitions. For their part, 47 workmen filed W.P.No.5507 of 2014 seeking a mandamus restraining the Transport Corporation from appointing new persons as Driver and Conductor in Dharmapuri region without giving them re-employment and the workmen further filed W.P. No.16707 of 2014 challenging the award of the Labour Court insofar as they were denied backwages.

3.3 The Single Bench, *vide* a common order dated 18.07.2023, disposed of the writ petitions filed by the workmen and dismissed the writ petitions filed by the Transport Corporation. The relevant portion of the common order passed by the Single Bench is worth extracting:

“12. In view of the above facts and circumstances, the Writ Petitions filed by the management are dismissed. The Writ Petitions filed by the workmen are disposed of with the following directions :-

(i) The management is directed to regularize the service of the workmen from the date of their termination as drivers and conductors without back wages till the date of award viz., 02.08.2013 with continuity of service and other attendant benefits.

(ii) The workmen are not entitled for back wages from the date of their termination till the date of award viz., 02.08.2013.



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(iii) The workmen are entitled to continuity of service and other attendant benefits from the date of their termination. The entire service of the workmen from the date of their regularization viz., from the date of their termination to be taken into account for calculating other attendant benefits.

(iv) The management is directed to fix the time scale of pay from the date of award on par with regular drivers and conductors, within a period of twelve weeks from the date of receipt of a copy of this Order

13. With the above directions, the Writ Petitions in W.P.Nos.5507 & 16707 of 2014 are disposed of and the Writ Petitions in W.P.Nos.11884 to 11933 of 2014 are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.”

3.4 Calling into question the legality and validity of the aforesaid order of the Single Bench, the Transport Corporation has preferred these writ appeals.

4 When this Court, by an interim order dated 05.03.2014, had directed the Transport Corporation to regularise the services of the workmen from the date of termination without backwages till the date of the award, the Transport Corporation started making fresh recruitment, which resulted in the filing of W.P. No.5507 of 2014 by the workmen, as stated in paragraph 3.2, *supra*. However, since some persons were appointed, the workmen approached this Court by filing a contempt petition in Cont. Petn. No.3412 of 2014, in which, this Court, *vide* order dated 27.02.2015, closed the contempt petition, based on the submissions made by Mr. P.H. Arvinth Pandian, learned



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workmen, out of whom, 5 workmen did not appear for interview and out of 42 workmen who appeared for interview, 2 were found ineligible; in all, 40 workmen were issued with appointment orders; if the absentees numbering 5 appear within one week, they will be interviewed and if found eligible, they will also be issued with appointment orders; and the remaining two ineligible workmen would be sent intimation appropriately.

5 Mr. Anand Gopalan, learned counsel for the Transport Corporation, submitted that out of the 5 workmen who absented for interview, 1 workman appeared and since he was found fit, he was appointed and that the order dated 05.03.2014 passed in M.P. No.1 of 2014 in W.P. No.5507 of 2014 has been complied with by appointing 41 workmen in all. He further fairly submitted that pursuant to the order of employment, the workmen are entitled to seniority and other benefits from the date of joining in service on par with other workmen. It his further submission that the Transport Corporation is willing to consider the request of the workmen to take into account their past service for calculating other benefits and in case, the order of the Single Bench is modified, there is a possibility of the claim and negotiations being defeated.



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6 Mr. Ajay Khose, learned counsel for the workmen, submitted that it is true that though 50 workmen approached the Labour Court, only 47 workmen had filed writ petitions and that 3 workmen had not approached this Court at all.

7 From a conjoint reading of the order dated 27.02.2015 passed in the contempt petition adverted to in paragraph 4, *supra*, and the submission of Mr. Anand Gopalan, it is clear that out of 50 workmen who raised industrial disputes, 3 workmen did not approach this Court at all; hence, all the 47 workmen who approached this Court, were sent call letters; out of 47 workmen, 2 workmen were found ineligible, leaving a balance of 45 workmen, out of whom, 5 remained absent for interview and the balance of 40 workmen were appointed and the remaining 5 workmen would be appointed in the event of they appearing for interview within one week, out of whom, 1 workman was appointed. Thus, in all 41 workmen have been appointed. Further, the cause title of the writ petitions filed by the workmen also shows that only 47 workmen approached this Court.

8 Considering the submissions of either side and also the facts and circumstances, with a view to shorten the life of the litigation and thereby,



bringing a quietus to the matter, the order of the Single Bench and the award of the Labour Court are interfered with, with the following observations:

- The workmen numbering 41 alone would be entitled to scale of pay and other benefits, on and from the date of their selection and appointment.
- The issue as to whether the past services of these 41 workmen can be counted or not for other benefits, needs consideration by the Transport Corporation and hence, the said issue is left open for negotiations and settlement.
- The workmen numbering 41 are entitled to entire service benefits, notionally fixed, without monetary benefits in the light of the judgment of the Supreme Court in **Armed Forces Ex Officers Multi Services Cooperative Society Ltd. v Rashtriya Mazdoor Sangh (INTUC) [(2022) 9 SCC 586]** relied upon by Mr. Ajay Khose, learned counsel for the workmen.
- We expect the Transport Corporation to negotiate and try to bring about a settlement within a period of two months from the date of receipt of a copy of this judgment.
- Arrears of pay based on the scale of pay that is applicable from the date of entry into service pursuant to the interview conducted based on call letters, shall be extended within a period of four months from the date of receipt of a copy of this judgment;

9 It is made clear that:

- the workmen in W.A. No.3111, 3155 and 3142 of 2023 are not entitled to any relief, inasmuch as, they have not filed writ petition;
- the workmen in W.A. No.3132 and 3115 of 2023 cannot be granted any relief since they were found ineligible; and
- the workmen in W.A. Nos.3146, 3134, 3123 and 3143 of 2023 also cannot be granted any relief inasmuch as they did not appear for selection.



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The writ appeals stand disposed of in the above terms. Costs made easy.

Connected Miscellaneous Petitions stand closed.

(S.V.N., J.) (K.R.S., J.)
10.11.2023

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To
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The Presiding Officer
Labour Court
Salem



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S. VAIDYANATHAN, J.

and

K. RAJASEKAR., J.

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