



W.P.No.208 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.208 of 2022

K.Sridharan

... Petitioner

Vs.

M/s.State Express Transport Corporation,
Rep.by its Managing Director,
No.2, Pallavan salai,
Chennai-600 002.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondent to regularize the service of the petitioner from 01.09.1996, the date of completion of 240 days as per the settlements arrived under Section 12(3) of the Industrial Disputes Act, 1947 on 28.08.1986, 28.09.1989 and 30.09.1992 and in the light of the order passed by this Court in W.P.No.17831 of 2020 dated 21.06.2021 and consequently to pay the arrears of salary w.e.f. 01.09.1996 with 6% interest to the petitioner herein by considering the representations of the petitioners dated 03.08.2017, 25.05.2019 and 01.11.2021.

For Petitioner : Mr.D.Soundar Raj

For Respondents : Mr.L.S.M.Hasan Fizal
Standing Counsel



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ORDER

This writ petition is filed for a direction to the respondent to regularize services of the petitioner with effect from 01.09.1996 upon the completion of the 240 days from the settlement arrived under Section 12(3) of the Industrial Disputes Act, 1947.

2.The case of the petitioner is that the petitioner joined service of the respondent on 30.01.1996 and he had completed 240 days of service as on 01.09.1997. At the relevant point of time, settlement under Section 12(3) of Industrial Disputes Act was in force between the labour Unions and the management and in spite of the same, the petitioner was not regularized . However, in the year 2005 when large scale regularization had taken place pursuant to the then settlement, the petitioner's services are regularized. The petitioner made a representation in the year 2015 and approached this Court. On directions by this Court, the representation was rejected. However, the petitioner again made a representation because the settlement under Section 12(3) covers the case of the petitioner and several judgments of this Court including in the writ petition Nos.17831 of 2020, 14145 of 2014 etc., The prayers of the



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individuals have been granted and therefore, he approached this Court once again.

3. Heard Mr.D.Soundar Raj, the learned counsel for the petitioner and Mr.L.S.M.Hasan Fizal, learned standing counsel appearing on behalf of the respondent.

4. The learned counsel for the petitioner, placing strong reliance on the earlier judgments of this Court, would submit that it has been categorically held that even an individual workmen can claim benefit under Section 12(3) of the Act. When all the earlier settlements are categorical to the point that the workmen who are employed should be regularized on completion of 240 days of service, there is absolutely no justification whatsoever which can be given by the respondent management in not regularizing the petitioner with effect from 01.09.1997 on which date he completed 240 days of continuous service. The learned counsel would rely upon the judgment of this Court in W.P.No.2652 of 2008 etc., and the judgment in ***P.Ravi Vs Tamil Nadu State Transport Corporation(Kumbakonam) Ltd.***, in W.P(MD).No.14145 of 2014.



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5. Per contra, the learned Standing Counsel for the respondent would submit that the petitioner would only be covered by 12(3) settlement of the year 2005 and not earlier settlements. The learned counsel also submits that as per their records, the petitioner is in service with effect from 18.08.1998. He further submits that when the petitioner has not chosen to challenge the order of regularization of his service immediately, he cannot be belatedly permitted to contend the same. He also submits that in earlier direction of this Court in the year 2015, by specific order dated 08.03.2016, the request of the petitioner was rejected and without even challenging the order, the present writ petition is not maintainable.

6. I heard the submissions made by the learned counsels on either side and perused the materials available on records.

7. Even as per the judgment cited by the learned counsel for the petitioner in ***V.Kosal Ram Vs State Express Transport Corporation Limited***, it has been held that in the normal course open to the employee who has the benefit of 12(3) settlement, he has to approach the Labour



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Court. Though in an extraordinary situation if the management is an organ of state, this Court has entertained the writ petition for enforcement of 12(3) settlement; In this case as the applicability of the relevant 12(3) settlement, and the date of initial employment, are disputed. This Court under Article 226 of Constitution of India cannot adjudicate upon the same. It would be appropriate for the petitioner to approach the labour court, if he chooses to, for relief.

8. In the result, this writ petition is disposed of with liberty to the petitioner to approach the Labour Court for redressal of the grievances as per law. No costs.

02.04.2024

Index: Yes
Speaking Order: Yes
Neutral Citation: Yes
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To

M/s.State Express Transport Corporation,
Rep.by its Managing Director,
No.2, Pallavan salai,
Chennai-600 002.
Nandanam, Chennai-600 035.



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D.BHARATHA CHAKRAVARTHY, J.

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