



W.P.(MD) No.9700 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.9700 of 2021

&

W.M.P(MD)No.7414 of 2021

S.Jayakumar

... Petitioner

Vs.

1.The Managing Director
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd, Tnstc Head Office,
No.27, Railway Station New Road, Kumbakonam.

2. The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd, Trichy Region,
Periya Milagupalayam, Trichy.

3.The General Manager,
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd., Kumbakonam Division-1,
No. 27, Railway Station New Road,
Kumbakonam.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the settlement arrived at u/s. 18(1) of ID Act 1947 in Ref. TNSTC/ LEGAL/ L2/ 7/2005, dated 19.07.2005 and quash the same.



W.P.(MD) No.9700 of 2021

For Petitioner : Mr.SP.Vijay Nivas
For Respondents : Mr.S.C.Herold Singh,
Standing Counsel

ORDER

The petitioner herein who was appointed as a Conductor in the respondent Corporation on 04.04.1997 with staff No.97 CR 236 subjected to disciplinary proceedings on the ground of unauthorized absence for 21 days and so dismissed from service through proceedings dated 29.04.2003. However, the said proposal for dismissal was not approved by the Joint Commissioner of Labour (Conciliation) as required under Section 33 (2)(b) of the Industrial Disputes Act, 1947. At that stage, the petitioner herein stated to have approached the respondent Corporation by submitting a letter dated 27.05.2005 making a request for appointing him as fresh Conductor while accepting to forego the past service of 14 years. Considering the request of the petitioner, the respondent Corporation considered the case of the petitioner under a settlement dated 19.07.2005 was entered into between the parties. Thereafter, the petitioner was appointed as fresh Conductor and continued in service, till the year 2016. During the said tenure, in the year 2016, he is stated to have been subjected to disciplinary proceedings, resulted

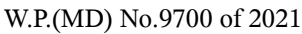


W.P.(MD) No.9700 of 2021

in punishable and finally the petitioner was dismissed from service in the year 2016 and challenging the same, the petitioner claimed to have approached the concerned Labour Court and the same is pending.

2. At that stage, the petitioner approached this Court by filing the present writ petition, questioning the settlement dated 19.07.2005 entered into between the petitioner and the respondent Corporation alleging that the said settlement was accepted by the petitioner by compulsion and also alleging that signatures were obtained forcibly by the respondent Corporation. The learned counsel for the petitioner also further contended that there is no additional benefit that was given to the petitioner and also stated that the said application for approval of the proposal for the dismissal from the service was negatived by the Joint Commissioner of Labour.

3. The respondent Corporation filed counter affidavit stating that it is only in response to a letter dated 27.05.2005 submitted by the petitioner, the respondent Corporation have not pursued the matter further, against the rejection of approval of the dismissal of the petitioner, though it has got good



4. In the light of the above, it is not possible for this Court to record specific factual finding as to whether the said impugned settlement was entered in to by way of compulsion and all such aspects can be decided on adducing appropriate evidence by the petitioner, establishing the allegation of compulsion exerted on him for signing on the settlement. Further the said settlement is of the year 2005 and the petitioner filed the present writ petition only in the year 2021, ie. after the lapse of about 15 years and that too after he was dismissed from the service in the year 2016.

5. In the light of the above, this Court is not inclined to entertain the petition, firstly on the ground of laches and secondly on the ground that this Court cannot decide factual dispute with regard to the alleged compulsion for entering into impugned settlement.



W.P.(MD) No.9700 of 2021

WEB COPY

6. Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to take appropriate steps against the impugned settlement, in accordance with law. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes/No

05.03.2024

Index : Yes/No

Internet : Yes

LS

To

1. The Managing Director
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd, Tnsc Head Office,
No.27, Railway Station New Road, Kumbakonam.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd, Trichy Region,
Periya Milagupalayam, Trichy.
3. The General Manager,
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd., Kumbakonam Division-1,
No. 27, Railway Station New Road,
Kumbakonam.



WEB COPY



W.P.(MD) No.9700 of 2021

MUMMINENI SUDHEER KUMAR, J.

LS

W.P.(MD)No.9700 of 2021

05.03.2024