



W.P.(MD) No.12679 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.12679 of 2021

and

W.M.P.(MD) Nos.9878 and 9880 of 2021

P.Raja

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Washermen Pettai, Tirunelveli.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli) Ltd.,
Nagercoil Region, Rani Thottam,
Kanniyakumari District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned batch list including the list of vehicles allotted for a union issued by the 2nd respondent published in the notice board on 06.07.2021 and quash



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the same as illegal and arbitrary and consequently direct the 2nd respondent to revise the batch list in terms of the employees' seniority and vehicles' seniority list maintained by the 2nd respondent.

For Petitioner : Mr.G.M.Xavier
For Respondents : Mr.R.Rajamohan
Standing Counsel

ORDER

When this writ petition is taken up for consideration, it is brought to the notice of this Court by the learned Standing Counsel appearing for the respondents that the very same issue raised in this writ petition was also raised in W.P.(MD) No.3248 of 2022 and the said writ petition was dismissed by a learned Single Judge of this Court by an order dated 21.02.2022.

2. The present writ petition is filed by the petitioner, who is claiming to be the General Secretary of Tamil Nadu INTUC Transport Workers Federation alleging that the respondents are not complying with the settlement dated 06.02.2008 entered into under Section 12(3) of the Industrial Disputes Act, 1947 and the circulars issued consequent upon the settlement and thereby violating the said settlement and the circulars issued therein, in



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particular Circular dated 27.02.2008, contrary to the settlement dated 06.02.2008. Though the petitioner claims to be the General Secretary of the Workers Federation, this writ petition is filed in his individual capacity as seen from the cause title.

3. From the counter affidavit filed by the respondents, it is noticed that the petitioner is no more in service and he has no individual grievance. Therefore, the writ petition filed, is in the nature of Public Interest Litigation.

4. Be that as it may, this Court has carefully perused the order passed by this Court in W.P.(MD) No.3248 of 2022, dated 21.02.2022 and is convinced that the issue raised in this writ petition is the one exactly considered by the learned Judge and relevant portion from the said order reads as under:

“3. The learned counsel appearing for the petitioner made a submission that as per 12(3) settlement entered into between the Management and the Workmen, the Management has agreed to follow the Rotation Batch System for providing duties. In this regard, a circular was



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also issued. However, the circular has not been properly followed by the Sub-ordinate officials. Thus, the petitioner is constrained to move the present Writ Petition.

4. This Court is of the considered opinion that certain terms are agreed between the Management and the Workmen by way of settlement under Section 12(3) of the Industrial Disputes Act. Based on the agreement, a circular was also issued. If at all, there is any dispute in respect of the implementation of the circular, then it is to be established in what manner the Management has violated the terms and conditions of the settlement. In the absence of establishing the violation, the Courts may not be in a position to give a clear relief to the litigants. Therefore, the disputed issues cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. All such disputed issues are to be adjudicated based on the documents in original and evidences and if required through oral evidences. The High Court cannot undertake such enquiry in a writ proceedings for the exact reason that the law contemplates that any violation of the settlement must be adjudicated before the Competent Labour Court for an appropriate relief. Merely based on the affidavit or circular, the High Court cannot form an opinion regarding the extend of violation by the



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Management or the implementation of the agreement by the Management. These are all the disputed facts which are to be adjudicated. However, this Court is of an opinion that the Transport Corporation being a State is expected to implement the terms and conditions of the settlement in the manner agreed and they should not unnecessarily cause hardship to the workmen who are all working in Transport Corporation. Except these observations, the High Court cannot adjudicate the issues by conducting a roving enquiry in a writ proceedings.”

5. In the light of the above, this Court is in complete agreement with the reasoning given by the learned Judge as extracted above and is of the considered view that this Writ Petition is also equally liable to be dismissed and the same is accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes
ABR

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MUMMINENI SUDHEER KUMAR, J.

ABR

To

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Washermen Pettai, Tirunelveli.
- 2.The General Manager,
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