



W.A.(MD) No.666 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD) No.666 of 2018
and
C.M.P(MD)No.3734 of 2018**

- 1.The General Manager,
The Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye-Pass Road,
Madurai District-625 016.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
By-pass Road,
Madurai District-625 016.
- 3.The General Manager,
The Tamil Nadu State Transport Corporation,
(Dindigul) Ltd.,
Dindigul District.
- 4.The Branch Manager,
The Tamil Nadu State Transport Corporation,
(Dindigul) Ltd., Theni Branch,
Theni District.

....Appellants/Respondents

-VS-

K.Karuppiah

...Respondent/Petitioner



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 20.10.2017, passed in W.P.(MD) No.19438 of 2023.

For Appellants : Mr.S.C.Herold Singh

For Respondent : Mr.M.M.Iqbal

J U D G M E N T

[Judgment of the Court was made by A.D.JAGADISH CHANDIRA, J.]

This intra-Court appeal has been preferred against the order, dated 20.10.2017 in W.P(MD)No.19438 of 2017 passed by the learned Single Judge of this Court granting certain directions.

2. For the sake of convenience, the parties are referred to according to their litigative status before the writ Court.

3. The petitioner, who is employed as a conductor in the respondents corporation and he was dismissed from service, for misappropriation, on 07.05.2003. The order of dismissal was also approved by the Joint Commissioner

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of Labour (Conciliation), Chennai vide order, dated 15.02.2005. The petitioner filed W.P(MD)No.6061 of 2007. This Court by order, dated 16.07.2007, dismissed the writ petition giving liberty to raise labour dispute. The petitioner filed I.D.No.45 of 2012. The Labour Court, Madurai passed an award, dated 27.05.2013 holding that the punishment imposed on the petitioner was not justified and directed the employer to reinstate the petitioner in service with continuity of service but without back-wages for the period from 07.05.2003 to 11.12.2011.

4. Thereafter, the first respondent and the petitioner entered into a settlement under Section 18(1) of Industrial Dispute Act, 1947. As per the terms of the settlement, the petitioner was inducted in service as a fresh recruit in the initial basic scale of pay. The petitioner also waived the right to claim the attendant benefits based on his past service. There was also a specific clause incorporated in the agreement that the petitioner herein would not move the High Court seeking back-wages or challenging the order treating him a fresh recruit. It was also placed on records that the petitioner herein had voluntarily entered into such a settlement and that he was not coerced into it. Based on the same, the first



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respondent passed an order, dated 24.05.2014. The petitioner after rejoining the service, submitted a representation dated 20.07.2017 requesting the respondents 1 and 2 to re-consider the matter and grant relief by implementing the award passed by the Labour Court, Madurai in I.D.No.45/2012. It was urged on behalf of the first respondent before the learned Judge that as per the provisions of the Section 18(2) of the Industrial Disputes Act, 1947, which reads that a Settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement, cannot be resiled. In that view of the matter, the learned Judge directed the respondents to confer all the benefits available to the writ petitioner in terms of the award, dated 27.05.2013 in I.D.No.45 of 2012 on the file of the Labour Court, Madurai. The aforesaid order of the Learned Judge is assailed by the respondents in this appeal.

5. We have heard Learned Counsel appearing for the parties and we are of the considered view that the writ petition itself ought not to have been entertained in view of the binding decision of the Full Bench of this Court in ***P.Pitchumani Vs. The Management of Sri Chakra Tyres Ltd., [2004(3) CTC 1]***,



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in which, it has been categorically ruled that the matters concerning service conditions of employees governed by Industrial Disputes Act, 1947, have to be adjudicated only by the fora created under that statute and are not amenable to the Writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950. It is not in dispute that during the pendency of the industrial dispute raised by the petitioner against his dismissal from service, he has entered into settlement under Section 18(1) of the Industrial Disputes Act, 1947, which was binding on him. The circumstance that the petitioner has been out of employment from the year 2003 onwards till the offer of employment as fresh entrant was made to him was under economic duress, cannot be accepted. If the petitioner was not satisfied with the offer made by the Respondent of providing employment to him as fresh-entrant, nothing prevented them from refusing to accept the same and proceed to get his claim for employment adjudicated in the proceedings under the Industrial Disputes Act, 1947, that were then pending. The conduct of the petitioner in having accepted the offer made by the first respondent resulting in closing the industrial disputes as having been settled between the parties then, has placed the First Respondent in a piquant situation, which the petitioner cannot now take advantage at the cost of the public exchequer. Above all, we do not find



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any satisfactory explanation for the inordinate delay from the date of re-employment to him as fresh-entrant to the year 2017 for the petitioner to assail the forfeiture of his past service. Viewed from this perspective, the Writ Court ought not to have shown any indulgence to the petitioner and extended his relief in the exercise of the discretionary powers of this Court under Article 226 of the Constitution of India, 1950. Accordingly, the order dated 20.10.2017 in W.P(MD)No.19438 of 2017 is set aside and the writ petition shall stand dismissed.

6. The writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.] [K.R.S., J.]

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