

WP.No.6488 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 16.06.2025**

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**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**W.P.No.6488 of 2021**

North Arcot District General  
Workers Federation, Rep by its  
Vice President,  
(Regd.No.285/MAT/80-Affiliated with INTUC)  
No. 5/18 Amirthalingaswamy Sannathi Street,  
Kosapettai, Vellore 632 001

... Petitioner

**Vs.**

1.The Principal Secretary,  
Labour and Employment Department,  
Government of Tamilnadu, Secretariat,  
Chennai 600009

2.The General Manager,  
Tamil Nadu State Transport Corporation  
(Villupuram) Ltd, Thiruvannamalai Region,  
Thiruvannamalai District 632 001

... Respondents

**Prayer :-** Writ Petition is filed under Article 226 of the Constitution of India calling for the records of the 1st respondent G.O. (D) 588, dated 21.10.2019 and quash the same and consequently to direct the 1st respondent to refer the dispute for adjudication before the appropriate Court.



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For Petitioner : M/s.S.T.Varadarajulu  
For Respondent : M/s.M.Jayanthi, AGP for R.1  
: R.2 - Not ready in notice.

### **ORDER**

The above Writ Petition is filed by a registered trade union seeking to issue a writ of certiorarified mandamus calling for the records of the 1st respondent G.O.(D).No.588 dated 21.10.2019 and quash the same and consequently direct the 1st respondent to refer the dispute for adjudication.

2. The short facts which has constrained the petitioner to approach this Court are as follows:-

3. The 2nd respondent transport corporation is owned by the Tamil Nadu Government and is operating passengers buses for the public in and around the Thiruvannamalai District. The 2nd respondent had convened a meeting and was negotiating with the petitioner union as well as the other union for arriving at a wage settlement under Section 12(3) of the Industrial Disputes Act (herein



after called as the "ID Act"). One Mr.S.Srinivasan, Conductor (Staff No. C62533) is an active member of the petitioner union and was involved in talking to the management on behalf of the union and its aggrieved members as a result of which the 2nd respondent management was displeased with him and had decided to victimize him.

4. While in service, the said Srinivasan has suffered illness and had requested the management to give him light duty. However, instead of offering him an alternate duty the 2nd respondent had initiated disciplinary proceedings. The period of absence due to his illness was treated as absence and he was imposed punishments 5 times.

5. The union raised a dispute before the Assistant Commissioner of Labour (Conciliation), Vellore by a petition dated 23.10.2017 under Section 2 K of the ID Act. Despite the efforts of the Conciliation Officer, no settlement could be arrived at and consequently the Assistant Commissioner of Labour (Conciliation), Vellore had sent a failure report under Section 12(4) of the ID Act to the 1<sup>st</sup> respondent



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on 09.07.2018. The 1<sup>st</sup> respondent who is under an obligation to refer the dispute for adjudication had failed to do so and on the contrary, had declined to refer the dispute for adjudication. Aggrieved by the same, the petitioner is before this Court.

6. Mr. S.T.Varadarajulu, learned counsel appearing for the petitioner union would submit that the reason for declining reference is that the petitioner has accepted the decision of the appellate authority and therefore the dispute now raised is not maintainable. He would submit that in the judgement of the Division Bench of this Court reported in **1988-(001)-LLJ-0177-MAD - M/s.Shaw Wallace & Co. Ltd. VS. State of Tamil Nadu (by Commissioner and Secretary, Labour Department) and others**, the Bench had listed out the principles/circumstances under which the Government can refuse to make a reference. He would submit that the instant case does not fall within any of the parameters as set out by the Bench and therefore the rejection of the request was totally erroneous.

7. Per contra, the learned Additional Government Pleader would submit that the 1st respondent had taken into consideration the fact that the petitioner has chosen not to challenge the order passed by the



appellate authority and therefore the petitioner cannot seek to re-agitate the issue.

8. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the 1st respondent.

9. In the judgement that is referred to by the learned counsel for the petitioner reported in **1988-(001)-LLJ-0177-MAD**, the Bench had observed that the reference by the Government is a normal rule and a refusal is an exception. After considering the various judgements in this regard, the Bench had set out the following principles:-

*(2) The Government may refuse to make reference, if -*

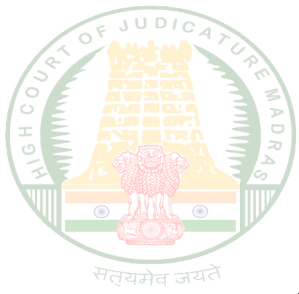
*(a) the claim is very stale;*

*(b) the claim is opposed to the provisions of the Act;*

*(c) the claim is inconsistent with any agreement between the parties;*

*(d) the claim is patently frivolous;*

*(e) the impact of the claim on the general relations between the employer and the employees in the region is likely to be adverse; and*



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*(f) the person concerned is not a workman as defined by the Act;*

10. A mere perusal of these principles and the reasons for the refusal would clearly show that the refusal on the part of the 1<sup>st</sup> respondent was without any basis or authority.

11. Accordingly, the Writ Petition is allowed. The impugned order dated 21.10.2019 is set aside and the 1<sup>st</sup> respondent is directed to refer the dispute for adjudication to the appropriate Court within a period of 4 weeks from the date of receipt of a copy of this order. No costs.

**16.06.2025**

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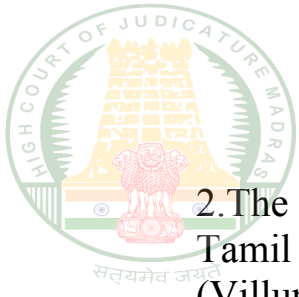
Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

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Chennai 600009



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2. The General Manager,  
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**P.T. ASHA. J.,**

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