

W.P.No.4335 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.4335 of 2023

and

WMP.No.4378 of 2023

The Management
Tamil Nadu State Transport
Corporation (Coimbatore Limited)
No.37, Mettupalayam Salai,
Coimbatore - 641043.

... Petitioner

Vs.

M.Sakthivel

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari call for the records relating to the Award made in CP.No.45 of 2021 dated 12.07.2022 on the file of the Additional Labour Court, Coimbatore and quash the same.

For Petitioner : M/s.T.Chandrasekaran

For Respondent : M/s.V.Porkodi



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ORDER

The above Writ Petition is filed for the following reliefs:-

"call for the records relating to the Award made in CP.No.45 of 2021 dated 12.07.2022 on the file of the Additional Labour Court, Coimbatore and quash the same.."

2. The issue involved in the instant Writ Petition is covered by the judgement of the Division Bench passed in WA.Nos.362 of 2023 etc. Batch, dated 03.08.2023.

3. The relevant portion of the said judgement is extracted herein below:-

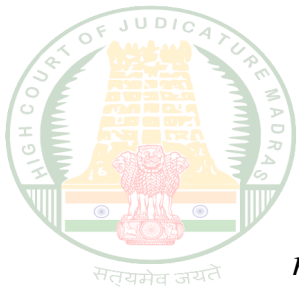
"15. In order to give a quietus to the issue on hand, we direct the employer who is amenable to writ jurisdiction of this Court to confer permanent status on and from 1st September, 2002 in the light of the appointment order dated 12.07.2000 produced by the employer and paragraph No.10 of the award, which reads as under:



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"10. அதேபோல் மேற்சொன்ன 24 காலண்டர் மாதங்களான 13.07.2000 முதல் 12.07.2002 வரையான காலத்தில், நான் மாதத்திற்கு 26 நாட்கள் பணிசெய்துவந்ததன் அடிப்படையில் கணக்கீடு செய்யப்பட்டாலே, நான் 14.01.2002ல் 468 நாட்கள் பணிமுடித்துள்ளேன். மேலும் அந்த மாதங்களில் எனக்கு சம்பளத்துடன் கூடிய வாரவிடுமுறை நாட்களான 72 நாட்களையும் சேர்த்தால் 540 நாட்கள் பணிமுடித்துள்ளேன். அதன்படி நான் வார விடுமுறையில் உள்ள 70 நாட்களில் 12 நாட்களை சேர்த்தால் நான் 14.01.2002ல் நான் 480 நாட்கள் பணிமுடித்துள்ளேன். எனவே மேற்சொன்ன கணக்கீட்டின்படியாவது என்னை பணி நிரந்தரம் செய்திருக்க வேண்டும்."

The Government Order had come into force only with effect from 2003 and therefore, that cannot take away the benefit conferred either under the settlement or available to a person under an enactment . Though it has been stated that the Rules framed under 1981 Act are not wide enough to empower the authority to decide, we cannot issue any direction to the Legislature to amend the act in a particular manner or frame the Rules. However, a suggestion can be made in the light of the judgment of the Hon?ble Apex Court reported in AIR 1987 SC 1960 (Krishna District Co-operative Marketing Society Ltd., Vijayawada V. N.S. Purnachandra Rao and others) wherein a suggestion was

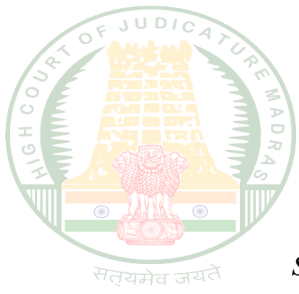


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made with regard to amending I.D. Act to enable the employee to approach the Court directly and the Apex Court has held that we cannot give a direction, but can make a suggestion that it is for the Legislature to decide as to whether suitable amendment needs to be incorporated in the Act or not.

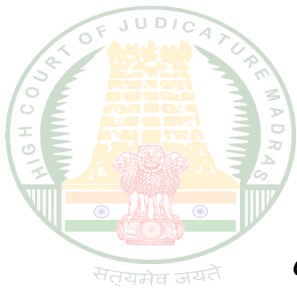
"11. We may incidentally observe that the Central Act itself should be suitably amended making it possible to an individual workman to seek redress in an appropriate forum regarding illegal termination of service which may take the form of dismissal, discharge, retrenchment etc. or modification of punishment imposed in a domestic enquiry. An amendment of the Central Act introducing such provisions will make the law simpler and also will reduce the delay in the adjudication of industrial disputes. Many learned authors of books on industrial law have also been urging for such an amendment. The State Act in the instant case has to some extent met the above demand by enacting



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section 41 providing for a machinery for settling disputes arising out of termination of service which can be resorted to by an individual workman. In this connection we have one more suggestion to make. The nation remembers with gratitude the services rendered by the former Labour Appellate Tribunal which was manned by some of our eminent Judges by evolving great legal principles in the field of labour law, in particular with regard to domestic enquiry, bonus, gratuity, fair wages, industrial adjudication etc. The Industrial Disputes (Appellate Tribunal) Act, 1950 which provided for an all-India appellate body with powers to hear appeals against the orders and awards of Industrial Tribunals and Labour Courts in India was repealed in haste. If it had continued by now the labour jurisprudence would have developed perhaps on much more satisfactory lines than what it is today. There is a great need today to revive and to bring into existence an all-India Labour Appellate Tribunal with powers to hear appeals against the decisions of all Labour Courts, Industrial Tribunals and



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even of authorities constituted under several labour laws enacted by the States so that a body of uniform and sound principles of Labour law may be evolved for the benefit of both industry and labour throughout India. Such an appellate authority can become a very efficient body on account of specialisation. There is a demand for the revival of such an appellate body even from some workers-organisations. This suggestion is worth considering. All this we are saying because we sincerely feel that the Central Act passed forty years ago needs a second look and requires a comprehensive amendment.

16. The writ appeal is disposed of accordingly. No costs. Connected C.M.P. is closed."

4. Since the issue involved in the instant case is covered by the above decision, this Writ Petition is disposed of on the same line as of the judgement of the Division Bench passed in WA.Nos.362 of 2023 etc. Batch, dated 03.08.2023. No costs. Consequently the connected



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Miscellaneous Petition is closed.

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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Additional Labour Court, Coimbatore.



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