



WEB COPY



W.P. No.10727 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.10727 of 2022

and

W.M.P. No.10373 and 10374 of 2022

Tamil Nadu Transport Staff
Federation

represented by the General Secretary,
TNSTC HO Complex, By pass Road,
Madurai - 625 010.

.. Petitioner

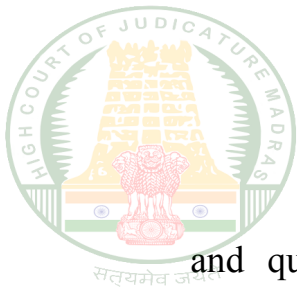
vs.

1. The Government of Tamil Nadu,
represented by the Secretary,
Labour Welfare and Skill Development (D1)
Department,
Fort St. George, Chennai - 600 009.

2. Tamil Nadu State Transport Corporation
(Salem) Limited,
represented by its Managing Director,
No.12, Ramakrishna Road,
Salem - 636 007.

.. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent relating to G.O. (D) No.357 dated 10.08.2021



W.P. No.10727 of 2022

and quash the same and consequently, to direct the 1st respondent to forthwith refer the demands raised by the petitioner Union that were declined to be referred under the aforesaid order, for adjudication along with the issues referred for adjudication by the Labour Court, Salem in I.D. No.86 of 2021 within a stipulated time frame.

For Petitioner : Mr. Ramapriya Gopalakrishnan

For Respondent : Mr.E.P. Senniyangiri,
Government Advocate [for R1]

Mr. K. Raja, Standing Counsel
[for R2]

ORDER

This Writ petition has been filed by the petitioner to quash the G.O. (D) No.357 dated 10.08.2021 passed by the 1st respondent declining to refer the demands raised by the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner Union is a registered Trade Union representing the employees working in the State Transport Corporation all over Tamil Nadu. One Sekar, a Member of the petitioner Union had joined services of Tamil Nadu State Transport Corporation, Salem Division on 21.09.1985 as a Conductor and he retired from service on superannuation on 28.02.2019. At the time of his

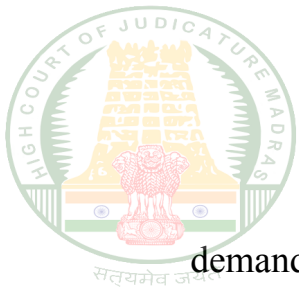


W.P. No.10727 of 2022

WEB COPY

retirement, he was working as a Senior Checking Inspector. The petitioner Union raised an industrial dispute to redress the grievances of the said Sekar before the Assistant Labour Commissioner (Conciliation), Salem and the failure report was submitted on 03.09.2019. Thereafter, the 1st respondent referred only two issues for adjudication by the Labour Court, Salem and refused to refer four other demands. As far as the referred matters for adjudication, the same is pending before the Labour Court, Salem in I.D. No.86 of 2021. The demand in respect of two increments for post graduate qualification, over time wages for the work done by the Conductor Sekar, leave surrender salary for 15 days and grade pay and increase in pay as per the recommendations of the 5th Pay Commission, have not been referred. The 1st respondent Government acted as an Adjudicating Authority. In fact, the power under Section 10(1) of the Industrial Disputes Act is the Administrative Power and the 1st respondent ought to have referred the matter along with other two disputes. Therefore, the order passed by the 1st respondent in G.O. (D) No.357 dated 10.08.2021 is liable to be quashed.

3. The learned counsel appearing for the 1st respondent would submit that the petitioner Union raised an industrial dispute by demanding charter of



W.P. No.10727 of 2022

WEB COPY

demands and the same were referred for conciliation and failure report was received from the competent Authority and after the receipt of the failure report, the Government after careful examination referred two disputes for adjudication and 4 other disputes were not referred, since there is no industrial disputes exists or apprehends. The Government has power to refer the matter after examining under Section 10(1) of the Industrial Disputes Act that whether any industrial dispute exists or not. Since there is no industrial dispute exists in the matters, the said demands were not referred for adjudication. Therefore, the Government acted in accordance with law. Therefore, the present Writ petition is liable to be dismissed.

4. The learned counsel appearing for the 2nd respondent reiterated the arguments of the 1st respondent and the Member of the petitioner Union is not entitled to increments, since he has not completed post graduate degree and he has not obtained post graduation after completion of 10+2+3+2 and there was a delay in claiming his over time wages and no earned leave in his account as per the records and the 6th demand in respect of service weightage was withdrawn as 'not pressed' by the petitioner Union. Therefore, the Government declined to refer those matters for adjudication. The



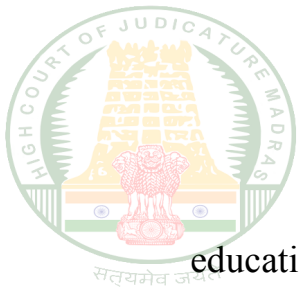
W.P. No.10727 of 2022

WEB COPY

Government has power to determine whether any industrial dispute exists or is apprehended as per Section 10(1) of the Industrial Disputes Act. Therefore, the order passed by the 1st respondent is within the purview of Section 10(1) of the Industrial Disputes Act and the present Writ petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. In this case, the petitioner Union raised an industrial dispute raising six demands and already two demands were referred for adjudication and the same is pending in I.D. No.86 of 2021 on the file of the Labour Court, Salem and the 1st respondent refused to refer the remaining four matters in Demand Nos.2, 4, 5 and 6. As far as the 6th demand is concerned, the petitioner Union has not pressed the said demand. As far as the grant of two increments for post graduate degree holder, overtime wages, 15 days earned leave surrender are concerned, the appropriate Government refused to refer the matter on the ground that the said Sekar has not studied 10+2+3+2 and he only studied upto X standard and thereafter, he obtained post-graduate degree through distance



W.P. No.10727 of 2022

WEB COPY

education. The over time wages have not been claimed immediately during the contemporary period. In respect of claim for leave surrender salary for 15 days, the petitioner can approach the Labour Court by filing a petition under Section 33-C(2) of the Industrial Disputes Act. Therefore, for the above said reasons, the said demands were not referred for adjudication by the 1st respondent.

7. On perusal of the demands made by the petitioner Union and the reasons for declining to refer the matter shows that there is an existence of the industrial dispute with respect to the entitlement of leave salary, over time salary and the increments for post graduate degree holder and hence the said demands have to be adjudicated by the Labour Court and the Government cannot decline to refer the matters and as per Section 10(1) of the Industrial Disputes Act, the Government can only pass administrative orders and cannot adjudicate the matter. Therefore, the above said order of the 1st respondent Government declining to refer the matters for adjudication by the Labour Court is against law and the same is liable to be set aside.

8. Accordingly, this Writ petition is allowed. The Government Order in



W.P. No.10727 of 2022

G.O. (D) No.357 dated 10.08.2021 passed by the 1st respondent is set aside in respect of the demand Nos.2, 4 and 5. The Government is directed to refer the above said demand Nos.2,4 and 5 to the Labour Court for adjudication. There shall be no order as to costs. Consequently, the miscellaneous petitions are closed.

03.07.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

To

1. The Government of Tamil Nadu,
represented by the Secretary,
Labour Welfare and Skill Development (D1)
Department,
Fort St. George, Chennai - 600 009.

2. Tamil Nadu State Transport Corporation
(Salem) Limited,
represented by its Managing Director,
No.12, Ramakrishna Road,
Salem - 636 007.

P. DHANABAL, J.,



WEB COPY



W.P. No.10727 of 2022

mjs

W.P. No.10727 of 2022

03.07.2025