

WEB COPY



W.P. No. 19503 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON	03032025
PRONOUNCED ON	032025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. No.19503 of 2020

and

W.M.P. No. 24112 of 2020

The Management,
Tamil Nadu State Transport Corporation (Salem) Limited
Dharmapuri Division,
Divisional Office,
Bharathipuram,
Dharmapuri – 636 705

.... Petitioner

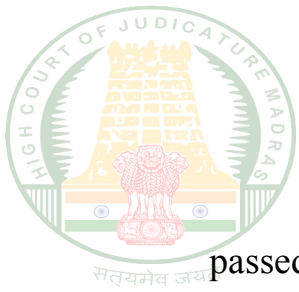
Vs.

C.Subramanian,
Driver, DR6077,
Son of Chinnatambi,
5 Ward, Perumal Kovil,
Mettupatty Post, Omalur Taluk,
Salem – 636 455

...Respondent

Prayer in W.P.19503 of 2020:

To issue a Writ or direction particularly in the nature of a Writ of
Certiorari, calling for the records relating to the order dated 21.11.2017



W.P. No. 19503 of 2020

WEB COPY

passed by the Presiding Officer, Labour Court, Salem in I.D.No.63 of 2015 and to quash the same as illegal and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Prayer in W.M.P.24112 of 2020

To grant interim stay of the Impugned Order dated 21.11.2017 passed by the Presiding Officer, Labour Court, Salem in I.D.No.63 of 2015 pending disposal of the above Writ Petition.

Appearance of Parties:

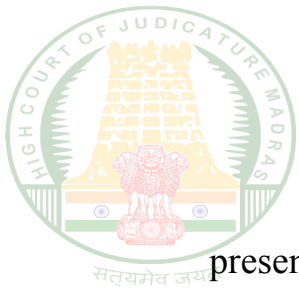
For Petitioner : M/s.D.Raghu, Advocate.

For Respondent : M/s.K.M.Ramesh, V.Subramani, S.Apunu, and
V.Sivaraman, Advocates

J U D G M E N T

Heard.

2. The writ petitioner, the management of State Transport Corporation Limited, Salem, has filed this writ petition challenging the award of the Labour Court, Salem, in I.D.No.63/2015 dated 21.11.2017. By the impugned award, the Labour Court recorded that the parties had reached a settlement during mediation proceedings conducted in the



W.P. No. 19503 of 2020

WEB COPY

presence of the Presiding Officer of the Labour Court. Pursuant to the mediation, the parties amicably resolved their industrial dispute, and the respondent submitted a memo of acceptance. Consequently, the Labour Court, recognizing the agreement reached between the parties and the memo of acceptance, directed that the petitioner provide the respondent with an alternative job. Accordingly, the award was passed in terms of the memo of acceptance, incorporating the mediation settlement as an integral part of the award.

3. Aggrieved by the said order, the management has filed the present writ petition. When the matter was listed for admission on 22.12.2020, the learned Additional Advocate General appearing for the petitioner-Transport Corporation sought time to produce the relevant file. Subsequently, the name of the counsel representing the respondent workman was directed to be printed. Upon receiving notice, the respondent filed a counter affidavit dated 06.02.2021. When the matter was taken up on 10.02.2021, this Court passed the following order:

“The present Writ Petition has been filed by the petitioner against the order passed by the Labour Court, Salem, on the basis of the Mediation Report.

2. The contention of the learned Additional Advocate



WEB COPY



W.P. No. 19503 of 2020

General is that the duly constituted Medical Board has opined that the respondent has suffered 0% disability. Inspite of the report, the Labour Court relied on some other reports and the order of the Regional Transport Corporation cancelling the license of the respondent and settled the matter through mediation.

3. The adjudication made on 02.07.2018 reads as under:-

Memo in ID 63/2015

By Thiru.P.Ravishankar,

Advocate for Petitioner/Respondent

As per the medical counsel recommendation the backbone of the Driver Thiru.C.Subramanian Respondent/Petitioner of this case has affected very seriously. Hence, the board recommended for light duty post and sent the order for the same. But Thiru.C.Subaramanian, Respondent/ Petitioner has not appeared before the Board.

Issue notice to respondent.

Clo:2/7/2018

B.No.570/1316

02.07.2018

P/N - Served

Objection to memo filed, since id is already ended in conciliation. Petition shall file appropriate I.D.

Memo is closed.

appeared before the Board."

4. From the reading of the said adjudication, it is seen that the respondent has not appeared before the Board.

5. Reliance placed by Mr.K.M.Ramesh, learned counsel for the respondent to the Medical Board's opinion dated 10.05.2017 is controverted through the



WEB COPY



W.P. No. 19503 of 2020

Medical Board's report dated 17.01.2018. Even without getting opinion of the Medical Board, the learned Judge has settled the matter in mediation and closed the petition.

6. In order to clarify the medical condition of the respondent, the following order is passed:-

(a) The respondent is directed to appear before the duly constituted Medical Board at Rajiv Gandhi Government General Hospital, Chennai, on 19.02.2021 without fail.

(b) The Medical Board is directed to examine the respondent as to his disability more particularly of the spinal cord injuries said to have been suffered by him and submit a report before this Court on or before 25.02.2021.

Post the matter on 25.02.2021”

4. Again on 25.2.2021, the following order was passed:-

“It is submitted by both sides that the Medical Board will be constituted and notice will be issued to the respondent/workman for his medical examination. 2. Accordingly, the Dean, Dr. Rajiv Gandhi Government General Hospital, Chennai is directed to constitute a Medical Board and issue notice to the respondent/workman and after medical examination send a report to this Court on or before 15.03.2021.

3. The respondent/workman is directed not to precipitate the execution petition.

4. Post this matter on 15.03.2021”



W.P. No. 19503 of 2020

WEB COPY

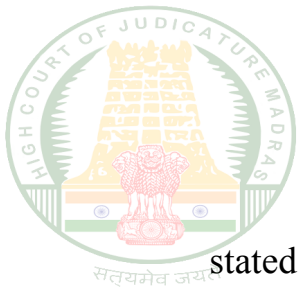
5. Again on 23.9.2021 when the matter came up, this order was passed:-

“In continuation of the earlier order dated 10.02.2021, the Dean, Rajiv Gandhi Government General Hospital, Chennai has filed a report dated 10.03.2021 stating that pursuant to the examination by the Medical Board on 02.03.2021, the respondent herein/ Thiru.C.Subramanian, was called upon to appear before the Ortho Specialist on 09.03.2021, on which date, the respondent had not appeared.

2.The learned counsel appearing for the respondent/Thiru.C.Subramanian would submit that after 09.03.2021, he had appeared before the concerned Ortho Special and he was also subjected to medical examination.

3.In the light of the submission made, the Dean, Rajiv Gandhi Government General Hospital, Chennai is called upon to submit a report based on the submissions made by the learned counsel for the respondent herein/ Thiru.C.Subramanian. Call on 21.10.2021.”

6. The petitioner also submitted an additional affidavit sworn to by the Managing Director of the Corporation. In the said affidavit, it was



W.P. No. 19503 of 2020

stated that the workman was initially appointed on 23.01.1996 and was regularized on 01.12.1996, with his date of retirement being 31.01.2024.

The affidavit further provided details regarding the workman's previous service history and leave records. It was contended that several other similarly placed individuals were not granted alternative employment and that the Corporation was facing financial constraints. Additionally, it was asserted that the understanding reached during mediation was not authorized by a competent person and, therefore, was not binding on the Board. In paragraph 4 of the affidavit, the following was stated:

“From perusal of the settlement culminating into passing of the order by the Labour Court, Salem at the best it could be construed that the acceptance to provide light duty was only for a period of two months. The workman cannot dispute the fact the Board was only competent to provide alternative employment and it cannot be the decision of the General Manager who lacks to provide one.”

7. In his preliminary counter affidavit dated 06.02.2021, the respondent workman detailed the events that transpired during the mediation proceedings and alleged that the present deponent was misrepresenting the issue. In paragraphs 4 to 7, the following averments were made:



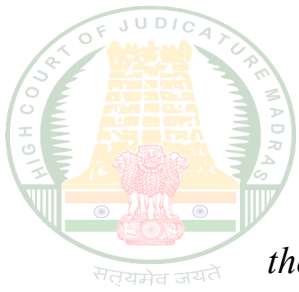
W.P. No. 19503 of 2020

WEB COPY

4. At the outset I submit that the deponent to the affidavit has no local standi to swear to the affidavit as he was not involved when the impugned award came to be passed by the Labour Court. At the relevant point of time one Mr.M.Gajendran was holding the post of General Manager and he alone is competent to swear to the affidavit.

5. I submit that I was very much present during the mediation proceedings and in fact even the said General Manager Mr.M.Gajendran was not present during mediation. Three officials from the Writ Petitioner Transport Corporation were present representing the Writ Petitioner Corporation. One Mr.Somasundaram, Assistant Manager and the other two were clerical staff. The Presiding Officer of the Labour Court held mediation proceeding and during the course of such mediation, the Assistant Manager agreed to the compromise mooted out and agreed to get the signature of the General Manager and he accordingly took the papers with him and got the signature of the General Manager Mr.M.Gajendran. Therefore the allegation that the Presiding officer of the Labour Court who held mediation coerced the General Manager to sign the proceedings is palpably false and untrue. It is very easy to cast allegation and get away with it. However, it has to be seen against whom such allegation is made. In this case, the allegation is made against the District Judge who was then presiding the Labour Court.

6. I submit that it is wholly unjustified on the part of the Writ Petitioner to make any such allegation against a judicial officer that too about coercion and threat. It is not in good taste to cast aspersions against the Presiding Officer who is in



W.P. No. 19503 of 2020

the cadre of District Judge since the judicial officers are defenceless. In the absence of concrete proof and evident, this Hon'ble Court should be very slow to accept the statements against judicial officers.

I understand that that said General Manager was transferred to some other Region. However, he is very much alive and accessible to the Petitioner Corporation. Therefore, if at all, said Mr.M.Gajendran, alone is competent to say as to how he was coerced and in what manner he was coerced. In that alternative, Assistant Manager – Mr.Somasundaram who was present during mediation proceedings could have sworn in the affidavit as to what transpired during mediation proceedings.

7. I submit that if really any such thing as alleged by the Writ Petitioner had happened, the Writ Petitioner need not have waited for more than 3 years to challenge the impugned award. The fact that the said allegation of coercion has been made after a period of 3 years itself shows that there is no iota of truth in it. The person who is said to have been coerced will not wait for 3 years to complain about it. Further, the allegation is not made by an ordinary citizen or layman. The allegation is said to have been made to a person who was holding high position in an organization which is owned by State of Tamil Nadu, which is wholly unbelievable and unacceptable.”

8. Pursuant to the directions issued by this Court, the Regional Medical Board examined the respondent and submitted the following report:



WEB COPY



W.P. No. 19503 of 2020

*“Proceeding of the Regional Medical Board
Rajiv Gandhi Government General Hospital
Chennai – 600003.*

*Proc.No. 003707 / RMB/RGGGH/2021 Held on 30.3.2021
Thiru/~~Ent~~. C.Subramanian 54/m Driver DR6077,
WP.No.19503 of 2020 and WMP No.24112 of 2020 o/o the
Sub Assistant Registrar, C Statistics /
C.S), High Court, Madras 600 104 has appeared before the
Regional Medical Board Rajiv Gandhi Government General
Hospital Chennai 3 on 30.3.21
Ortho Spine surgeon opinion obtained on 26.03.21 – patient is
unfit for the post of heavy vehicle driver.”*

9. It is deeply concerning that the petitioner corporation, a state-owned entity, has compelled individuals like the respondent to undergo undue hardship merely to enforce a statutory right granted under *The Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995*, which has since been replaced by *The Rights of Persons with Disabilities Act, 2016*. As early as 2010, this Court, through an interim order, directed all transport corporations to refrain from subjecting workmen to unnecessary litigation and instead establish an appropriate mechanism to resolve such issues internally. In its order dated 27.09.2010 in W.P. (MD) No. 11631 of 2009, this Court issued the following direction:

*"2.It is a sorry state of affairs in the Corporation
that over the years, hundreds of cases are filed*



WEB COPY



W.P. No. 19503 of 2020

before this Court as well as before the Principal Bench of this Court by the conductors and drivers of the Corporation, who unfortunately became disabled due to employment related injuries. In most of the cases, the employees were forced to come to this Court either for referring their cases to the Regional Medical Board or for getting alternative employment in terms of Section 47 of the Act.

3. When the Parliamentary Law on the subject Section 47 of the 1995 Act puts embargo on the Corporation from discharging such disabled employees and mandates it to provide alternative employment, it is unnecessary for those employees to rush to this Court for getting appropriate relief.

4. This Court and the Principal Bench of this Court have already passed more than 500 orders. In some cases, the Transport Corporation filed Writ Appeals and some of those appeals were also dismissed even at the admission stage. The subject matter of such issues are squarely covered by more than ten decisions of the Supreme Court. Therefore, the Transport Corporation need not drive parties to this Court to have their cases considered as if the law is unclear.

5. The Corporation must realize its social responsibilities as well as the welfare of the workers in dealing with such cases. The Corporation should immediately constitute a Special Cell relating to disabled workmen,



WEB COPY



W.P. No. 19503 of 2020

comprising higher level officers to consider such grievances on day-to-day basis rather than making the workers to come to this Court on each occasion and spend years together for getting relief, which is guaranteed to them under the 1995 Act. This will avoid unnecessary hardship besides saving money for the workmen on costly litigation. The Managing Director shall set in his affidavit the steps to be taken in this regard. He is not expected to just deal with the present case alone. "

10. In compliance with the Court's direction, the petitioner corporation filed an affidavit outlining the steps taken by them, which are as follows:

"2)It is submitted that to complying the orders of the Hon'ble High Court, Madurai Bench, Dated: 27.09.2010 in W.P.(MD).11631 of 2009, the following senior officials of this corporation are nominated and a Special cell is constituted to receive and attend the grievances of such of those employees who seek alternate employment based on the Medical report on day today basis.

1)General Manager (Technical & Administration)

2)Senior Deputy Manager

3)Corporation Medical Officer

4)Deputy Manager (Legal)

5)Assistant Manager (HR) The committee shall peruse the connected records and put up its recommendation and



W.P. No. 19503 of 2020

WEB COPY

remarks to the Managing Director to take appropriate action immediately."

11. Subsequently, this Court, by its order dated 25.10.2010, issued the following directions and disposed of the writ petition:

"7. At least the respondent Corporation has now realized its corporate responsibility towards its employees and has come up with the formation of a committee as per the undertaking on 25.10.2010. But it is not suffice that such an undertaking is given only to this court without it being let known to all workers. The concerned workmen who ran to length and breadth of the State must also be aware of such remedies available to them, lest on each occasion they may be forced to come to this court spending huge amount of litigation expenses. Therefore, in the fitness of things, the respondent Corporation must be directed to publish the formation of the Commission and the power delegated to the committee apart from being exhibited in their notice boards must publish it in leading Tamil newspapers, so that the workmen will be aware of their rights and can approach the in-house committee for the redressal of their grievances, failing which it will be always open to them to come to this court. By the constitution of the committee, they can get the relief in terms of the provisions of the act and there will be no necessity for them to spend huge amounts besides time and energy of such workers as well as the Corporation will be saved. This court also will not be clogged with such unnecessary litigations. As the issue raised in the writ petition has been decided in plethora of cases by this court both by the learned single judge as well as by the division bench and that precedents laid down by the Supreme Court was also clear.



W.P. No. 19503 of 2020

WEB COPY

8. Insofar as the petitioner's case is concerned, it is unnecessary that the issue should be sent before the Committee as the respondents themselves acting upon the Medical Board's opinion had terminated the service of the petitioner without any justification."

12. It remains unclear whether such committees continue to exist within the petitioner corporation. Based on the respondent's experience, there appears to be little indication that the corporation is genuinely committed to the welfare and interests of employees with disabilities arising from their employment. The additional affidavit filed by the petitioner suggests that their primary concern is the financial implications rather than the well-being of the workman. Furthermore, in paragraph 11 of the original affidavit, the petitioner has unnecessarily alleged that the mediation settlement dated 21.11.2017 was obtained through coercion. Such allegations against a Senior District Judge, who also served as the Presiding Officer of the Labour Court, are wholly unwarranted and may amount to contempt of court.

Bottom of Form

13. Furthermore, the order under challenge is dated 21.11.2017, while



W.P. No. 19503 of 2020

the present writ petition was filed only on 10.12.2020, a delay of three full years. No explanation has been provided for this inordinate delay. On this ground alone, the writ petition is liable to be dismissed for delay and laches. In this context, the Supreme Court, in *Karnataka Power Corporation Ltd. through its Chairman & Managing Director & Anr. v. K. Thangappan*, reported in 2006 (4) SCC 322, held as follows:

*“Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prasad v. Chief Controller of Imports and Exports* (AIR 1970 SC 769). Of course, the discretion has to be exercised judicially and reasonably.”*

14. This Court finds no valid grounds to interfere with the impugned award. Accordingly, the writ petition is dismissed both on the grounds of delay and on merits. Consequently, the W.M.P. seeking interim stay is



W.P. No. 19503 of 2020

also dismissed. Given that the petitioner corporation has subjected the respondent workman to unnecessary hardship by prolonging litigation with unsubstantiated allegations, a cost of Rs. 10,000/- is imposed, to be paid to the counsel for the respondent as legal fees. Regarding the implementation of the impugned order, considering subsequent developments and relevant legal enactments, it is for the petitioner corporation to determine the appropriate relief to be provided to the respondent workman. This exercise shall be completed within one month from the date of receipt of this order.

20.03.2025

ay

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

To

The Presiding Officer,
Labour Court, Salem
(with records if any)

DR. A.D. MARIA CLETE, J

ay



WEB COPY



W.P. No. 19503 of 2020

Pre-Delivery Judgment made in
W.P. No.19503 of 2020
and
W.M.P. No. 24112 of 2020

20.03.2025