



W.A.(MD)Nos.540 of 2020 and batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)Nos.540, 541, 542, 543, 544, 545,
546, 547, 548, 549, 550, 551 and 552 of 2020**

and

**C.M.P.(MD)Nos.3740, 3742, 3745, 3746, 3749, 3750,
3752, 3755, 3757, 3765, 3768 and 3769 of 2020**

W.A.(MD)No.540 of 2020:-

R.Gurusamy

... Appellant

Vs.

The Management,
Tamilnadu State Transport Corporation
Madurai Division Ltd,
Chettinayakkan Patti Post,
By-Pass Road, Dindigul.

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.18334 of 2014 dated 19.07.2019 on the file of this Court.

For Appellant : Mr.K.K.Samy

For Respondent : Mr.J.Senthilkumaraiah



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COMMON JUDGMENT
(By G.R.SWAMINATHAN, J.)

The appellants herein were engaged as Drivers / Conductors on daily wages by the respondent / transport corporation. The work particulars are as follows:-

S.No.	Name of the appellant	Designation	Work period	Amount paid	Amount to be paid
1.	R.Gurusamy	Conductor	18.06.2006 to 10.08.2007	Rs.31,000/-	Rs.31,288/-
2.	C.S.Selvakumar	Conductor	14.08.2006 to 07.08.2007	Rs.22,875/-	Rs.37,949/-
3.	V.Subramanian	Driver	28.08.2006 to 20.07.2007	Rs.27,900/-	Rs.28,008/-
4.	M.Balamurugan	Conductor	04.08.2006 to 20.07.2007	Rs.22,425/-	Rs.37,004/-
5.	K.Krishnamoorthi	Driver	01.10.2006 to 14.08.2007	Rs.27,100/-	Rs.27,637/-
6.	R.Sakthivel	Conductor	19.11.2006 to 18.07.2007	Rs.14,925/-	Rs.25,209/-
7.	Azhagumurugan	Driver	10.10.2006 to 18.07.2007	Rs.24,100/-	Rs.24,501/-
8.	Archunan	Conductor	25.07.2006 to 20.07.2007	Rs.23,100/-	Rs.38,039/-
9.	A.Ramu	Conductor	18.09.2006 to 21.08.2007	Rs.21,525/-	Rs.36,083/-
10.	P.Navarajan	Driver	08.10.2006 to 14.08.2007	Rs.23,200/-	Rs.23,906/-
11.	M.Balasubramani	Conductor	21.08.2006 to 21.07.2007	Rs.19,350/-	Rs.32,289/-
12.	C.Nagarajan	Conductor	15.06.2006 to 20.07.2007	Rs.25,575/-	Rs.41,821/-
13.	C.Sakthivel	Conductor	02.06.2006 to 20.07.2007	Rs.26,625/-	Rs.43,435/-

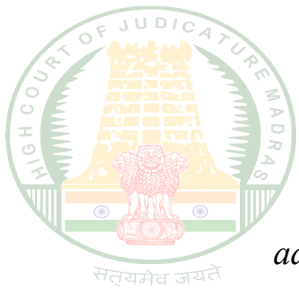


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2.Contending that they should be paid in terms of the settlement entered into between the employees and the management in terms of Section 12(3) of the Industrial Disputes Act, 1947, they filed petitions under Section 33(C)(2) of the Act before the Labour Court, Tiruchirappalli (Camp at Dindigul). Exs.P1 to B13 were marked on the side of the employees. On the side of the employer, two witnesses were examined and Exs.R1 to R3 were marked. The Labour Court after consideration of the evidence on record, allowed the claim petitions vide common order dated 08.11.2012. The Labour Court held as follows:-

“In this view, the petitioners are entitled to get the differences of pay mentioned in the petitions. Even though, calculation is disputed by the respondent in the counter, it is not brought to the notice of the court by producing relevant documents disputing the calculation, as custodian of documents of workmen. The respondent is expected to bring to the notice of this Court about the actual particulars of workmen and salary given, so as to enable this Court to arrive to conclusion, when they failed to produce such particulars, this Court is inclined to infer that they were not having sufficient particulars and if such particulars were produced, It will go against them and so, the respondent had failed to produce such particulars and so,



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adverse inference has to be drawn. In this view, the calculation made by the petitioners is not disputed with valid particulars and so, petitioners are entitled for claiming the amount.”

3. Aggrieved by the same, the management filed W.P.(MD)Nos. 18331 to 18385 of 2014. The learned Single Judge vide common order dated 19.07.2019 set aside the order of the Labour Court and allowed the writ petitions. Aggrieved by the same, some of the aggrieved employees have filed these writ appeals.

4. The prime ground on which the order of the Labour Court was set aside was that the appellants herein were perceived as back door entrants. The learned Single Judge invoked the decision of the Hon'ble Supreme Court reported in **(2006) 4 SCC 1 (The Secretary, State of Karnataka Vs. Uma Devi)** to hold that the appellants who were engaged by the respective branch managers are not entitled to claim differential salary as per 12(3) settlement.

5. Even though the learned standing counsel for the management endeavoured to sustain the order of the learned Single Judge, we are not

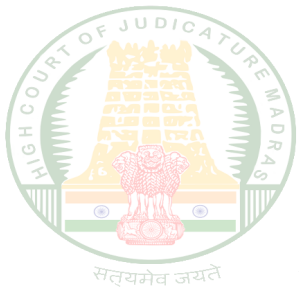


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inclined to accept the same. The appellants herein did not pray for the relief of regularization. They merely sought the difference in payment as per 12(3) settlement.

6. Admittedly, the appellants herein had worked either as Drivers or Conductors. The management having extracted work from them was obliged to pay them proper pay. The Labour Court also had correctly approached the issue and gave the following findings:-

“On perusal of entire records, it revealed that M.W.2 a branch manager of Respondent Corporation deposed before this Court that he had appointed certain petitioners in violation of the standing order and provision of Law. But on the other hand, the petitioners had proved that the said branch manager also had appointed those employees only with the knowledge of the Regional Office by producing copy of receipt for security deposit and letter recommended the Regional Office to return back the original deposit. Normally, the branch managers used to get original license of the driver on appointment, and a driver has to pay a sum of Rs.2,000/- as security deposit. So, when a person was terminated, he had applied for return of security deposit and it was authorized by the Regional Office. This fact is proved by Ex.P.7. Similarly, a worker wanted to get back his driving license and it was recommended by the branch manager to the deputy manager of the corporation in Regional Office. This fact is



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proved by Ex.P.8. These two documents proved that the petitioners were engaged by the branch manager only with the knowledge of the head office not on their own. Moreover, after engaging such persons, the entire collections of the buses in which the petitioners were engaged, were deposited in the branch office and it was remitted to the Head Office without any objection. When such amount was received by the Head Office through the service of the petitioners now they are estopped from stating that they did not know that the petitioners were employed by the branch manager without their knowledge. In this view, the contention of respondent, that petitioners were appointed without knowledge of Regional Office is not true, contrary to records of respondent and not acceptable.

Another objection was raised by the respondent contending that such issues can be decided only under Section 2(A)(2) and 10(1) of the Industrial Disputes Act and it cannot be decided under Section 33(C)(2) of the Industrial Disputes Act.

On perusal of entire material evidences, this Court is of the considered opinion that the respondents had deliberately given false objections without any basic materials and in such circumstances, merely because a reasonable claim, claimed in the claim petitions was resisted by raising baseless objections The workers cannot be driven to raise an industrial dispute under Section 2(A)(2) of the Act. This Court can independently look into the right of the petitioner and his pre-existing right over



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the amount claimed in the claim petition and the nature of material evidences available before this Court. A cursory glance of the documents produced by the petitioner revealed that the respondent had deliberately suppressed the permission given by the secretaries of the public Transport Corporation as well as deliberately made the M.W.3, to depose false statement with intention to prolong the matter as far as possible, contrary to the documents available After perusing such documents, the legal assistant of the respondent, M.W.2 has also admitted that such documents were available with them. These facts proved that these documents only were suppressed and objected the reasonable claim to escape from clutches of law and avoid payment by giving such statement which cannot be allowed by this Court. This Court cannot be silent spectator to allow the respondent to raise baseless objection without any legal sanctity. When the petitioner is entitled for a relief on the basis of settlement and on the basis of acceptable documents, this Court cannot deny such relief on technical reason also.”

7.The approach adopted by the Labour Court was reasonable, correct and justified. A person who had rendered service as Driver or Conductor has to be paid proper pay in terms of the settlement entered into between the Union and the Management. In this case, the pay received by the petitioners was not in consonance with the terms of the



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settlement. The Labour Court was justified in directing the management to pay the difference in pay. This aspect of the matter was not taken note of by the learned Single Judge.

8. In this view of the matter, the order of the learned Single Judge is set aside and the writ appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (K.R.S. J.)
22.08.2025

NCC : Yes/No
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