



W.P.(MD)No.18282 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2025

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.18282 of 2017 &
W.M.P.(MD)No.14728 of 2017

Velmurugan

...Petitioner

vs.

1.The Secretary to the Government,
Labour and Employment Department,
Fort St.George, Chennai - 9.

2.The Labour Officer,
3rd Cross Street, Tirunelveli - 627 011.

3.The General Manager,
Tamil Nadu Transport Corporation,
Tirunelveli District,
Tirunelveli.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the entire records pertaining to the impugned proceedings issued by the second respondent in Na.Ka.No.A/217/16 dated 09.09.2016 and the consequential impugned order passed by the first respondent vide G.O.D.No.751 dated 23.12.2016 and to quash the same as illegal and



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consequently direct the third respondent to pay the petitioner's increment for the past 7 years from 2011 to 2017 and review allowances for the forthcoming years.

For Petitioner : Mr.G.M.Xavier
For Respondents : Mr.P.Thambidurai
Government Advocate for R1 and R2
Mr.K.Satya Singh for R3

O R D E R

This writ petition was filed challenging the impugned proceedings of the second respondent in Na.Ka.No.A/217/16 dated 09.09.2016 and the consequential impugned order of the first respondent vide G.O.D.No. 751, dated 23.12.2016.

2. Initially, the petitioner has filed an application under Section 2(k) of the Industrial Disputes Act, 1947, pursuant to which, conciliation proceedings was held on various dates and the same was failed. Therefore, failure report was sent on 09.09.2016 by the Labour Officer (incharge) and the matter was referred to the first respondent, who in turn passed a Government Order in G.O.(D)No.751, dated 23.12.2016, refusing to refer the present Industrial Dispute to the Labour Court to



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agitate the grievances of the petitioner citing the reason that the request of the petitioner is pre-mature.

3. The learned counsel appearing for the petitioner would submit that, in the present case, the petitioner was suspended from service from 20.06.2011 to 26.12.2016. During that period, the third respondent Corporation refused to provide any increment to the petitioner. He would fairly submit that disciplinary proceedings was initiated against the petitioner, in which, the petitioner was imposed with a punishment of two years increment cut with cumulative effect. However, no review benefit was provided to the petitioner, which he is legally entitled. The punishment awarded by the disciplinary authority was already challenged by the petitioner before the Labour Court. He therefore prayed this Court to grant liberty to approach the Labour Court for the purpose of getting increment and review benefits by setting aside the order passed by the first respondent dated 23.12.2016.

4. The learned Government Advocate appearing for the respondents 1 and 2 would submit that the aspect of pre-mature has come



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to end since the disciplinary proceedings has attained finality.

Challenging the punishment, a petition was also filed before the Labour Court. Therefore, he would submit that if this Court feels this is a fit case to be referred to the Labour Court, he will leave it to the decision of this Court.

5. I have given due consideration to the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 1 and 2.

6. A perusal of records available before this Court shows that in a dispute raised by the petitioner, conciliation proceedings was held and the Conciliation Officer passed an order on 09.09.2016 stating that conciliation failed and referred the matter to the first respondent. The first respondent refused to entertain the request of the petitioner and refused to refer the Industrial Dispute to the Labour Court for the reason that the request of the petitioner is pre-mature. On the other hand, it appears that the disciplinary proceedings initiated by the third respondent attained finality, wherein, the petitioner was imposed with a punishment



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of two years increment cut with cumulative effect. Whatsoever reason, when the petitioner was kept under suspension for a period of more than five years, if the disciplinary proceedings has not attained finality, then, he is entitled for increment during that period. Though the petitioner was ready to work, his suspension was prolonged unreasonably, only at the instance of the third respondent, for which, they cannot finger at the petitioner that he has not worked. Therefore, the dispute raised by the petitioner was not pre-mature even though the disciplinary proceedings was pending. However, now the disciplinary proceedings had attained finality. That is the reason why, the learned Government Advocate left the decision to the consideration of this Court. Even this Court is satisfied that the present dispute may be referred to the Labour Court for adjudication.

7. In view of the above, the proceedings of the second respondent in Na.Ka.No.A/217/16 dated 09.09.2016 and the consequential order of the first respondent vide G.O.D.No.751, dated 23.12.2016 are set aside and the petitioner is granted liberty to raise the present dispute before the concerned Labour Court. Upon arising the dispute, the concerned



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Labour Court is directed to adjudicate the matter in accordance with law within a period of six months from the date of receipt of a copy of this order.

8. Accordingly, the present Writ Petition is disposed of. No costs.

Consequently, the connected Miscellaneous Petition is closed.

23.01.2025

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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KRISHNAN RAMASAMY, J.

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