

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/06/2003

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THE HON'BLE MR.JUSTICE P.D. DINAKARAN

Writ Petition No.39820 of 2002

Tamil Nadu State Transport
Employees Federation (CITU)
(Regd.No.2468/MDS)
rep. by its General Secretary
No.52, Cooks Road, Chennai-12. .. Petitioner

-Vs-

1. State of Tamil Nadu
rep. by Secretary
Transport Department
Secretariat, Chennai-9.

2. Metropolitan Transport Corporation
(Chennai) Ltd., rep. by its
Managing Director, Pallavan Salai
Chennai-2.

3. Tamil Nadu State Transport Corporation
Ltd., (TNSTC) rep. by its
Managing Director,
Villupuram Division, Villupuram-605602.

4. Tamil Nadu State Transport Corporation
Ltd., (TNSTC) rep. by its
Managing Director, Kanchipuram Division
No.1/2, Nadu Street, Shekpet
Kanchipuram-631 501.

5. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Vellore Division
No.9, Rangapuram, Vellore-632 009.

6. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Tiruchi Division
Periamilaguparai, Tiruchi-620 001.

7. Tamil Nadu State Transport Corporation

Ltd., (TNSTC), rep. by its
Managing Director, Kumbakonam Division
Railway Station New Road,
Kumbakonam -612 001.

8. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Pudukottai Division
No.51/1, Pillai Thanneer Pandal
Thirumayam Road, Pudukottai-622 001.

9. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Virudhunagar Division
Virudhunagar.

10. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Dindigul Division
Bye-Pass Road, Dindigul-624 004.

11. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Karaikudi Division
Maruthupathi Mangiri Road
Karaikudi-630 307.

12. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Madurai Division
Bye-Pass Road, Madurai-625 010.

13. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Tirunelveli Division
No.2, Thiruvananthapuram Road
Vannarapettai, Tirunelveli-627 003.

14. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Nagercoil Division
Nesamoni Nagar, Rani Thottam
Nagercoil-629 001.

15. Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Coimbatore Division
No.37, Mettupalayam Road
Coimbatore-641 043

16. Tamil Nadu State Transport Corporation

Ltd., (TNSTC), rep. by its
Managing Director, Salem Division
No.12, Ramakrishna Salai
Salem-636 007.

17.Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director Dharmapuri Division
Bharathipuram, Salem Road
Dharmapuri-636 705.

18.Tamil Nadu State Transport Corporation
Ltd., (TNSTC), rep. by its
Managing Director, Erode Division
Chennimalai Road, Erode-638 001.

19.State Express Transport Corporation Ltd
rep. by its Managing Director
Pallavan Salai, Chennai-600 002. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for the issue
of a writ of Mandamus as stated therein.

For Petitioner : No appearance

For Respondents : Mr.N.R.Chandran,
Advocate General
assisted by
Mr.M.S.Palanisamy,
Addl. Government Pleader
for 1st respondent
Mr.M.Venkatachalapathy
Senior Counsel
for Mr.G.Muniratnam
for respondents 2 to 19

:ORDER

The petitioner-employees federation, on behalf of its members, who are
more than 35,000 workers out of 1,25,000 workers working under the
respondent-Corporations, has filed the above writ petition seeking a writ of
Mandamus to direct the respondents to pay the Festival Advance and Education
Allowance to the workers as per their settlements dated 28.9.1995 and
13.2.1999 as per practice until the year 2001.

2. According to the petitioner-employees federation, they are
entitled to a sum of Rs.1000/- towards Festival Advance and an Educational
Allowance of Rs.100/- per child for the purchase of books, for a maximum of
two children for a worker, irrespective of the salary limit, as per the terms

of the settlements dated 28.9.1995 and 13.2.1999 entered into between the petitioner-employees federation and the respondent-Corporations under Section 12(3) of the Industrial Disputes Act.

3.1. The claim of the petitioner-employees federation was stoutly resisted by the State and the Corporations contending that both the settlements dated 28.9.1995 and 13.2.1999 last only for a period of three years from the date of respective settlements and as the said settlements are not in force as on date, there is no basis for the claim of the petitioner.

3.2. Inter alia, it was contended on behalf of the respondents that the employees having participated in the strike between 9.11.2001 and 25.11.2001 for a period of 17 days have virtually violated the terms of the settlement relied upon by them, which contemplates that the parties would strive to improve the economy in operation and avoid strike/lockout, stoppage of work, go slow, etc., and would mutually cooperate to provide an efficient bus passenger transport service to the public.

3.3. According to the second respondent Metropolitan Transport Corporation, the cumulative revenue loss for the said 17 days turns out to a sum of Rs.630.78 lakhs and the loss of revenue for the other transport undertakings works out to the tune of Rs.4670.45 lakhs. In any event, since the entire administration of the transport corporation suffered a huge revenue loss to the tune of several crores, apart from putting the commuters to great hardship due to the non-cooperation and non-productive attitude of the employees, it would not be feasible to meet the demand of the employees which approximately may work out to Rs.12 crores.

4. While the petitioner-employees federation submits that the need of the said advances by the employees, is based on the settlements dated 28.9.1995 and 13.2.1999 entered into between the petitioneremployees federation and the respondent-Corporations under Section 12(3) of the Industrial Disputes Act, Mr.N.R.Chandran, learned Advocate General rejected the claim of the petitioner-employees federation contending that the petitioner-employees federation is not entitled to seek the advances as a matter of right, but however when this Court expressed its concern as to the need of the Education Allowance to the employees and reposed confidence that the Government would consider and appreciate the same and pass appropriate orders in the matter, the learned Advocate General fairly agreed to apprise the Government in this regard.

5. It is true while the service conditions of the employees is of paramount consideration to achieve the goals for having an effective and vibrant civil service in the society, it is preeminently important that for a Welfare State, a healthy and energetic civil service by the public sector undertakings guaranteed for an increased productivity, profitability and efficiency by its employees is inevitable. Such requirement of relative obligation between the employees of a State owned Corporation and the State cannot be ignored while considering the rights and obligations of the employees and the management. Therefore, without going into the question whether the settlements entered into between the petitioner-employees

federation and the respondentCorporations are still in force and assuming if the said settlements are in force, the petitioner-employees federation is entitled to seek the relief as prayed for, I am of the considered opinion that the rights of the parties that flow from such settlements depends upon the corresponding discharge of their respective obligations.

6. However, acknowledging the view of the Court, the Government, in G.O.(D)No.86, Transport (C1) Department, dated 24.6.2003, in spite of its financial strains, extended its benevolence and accorded its sanction for the payment of Rs.1000/- as an Educational Advance to the employees of the State Transport Undertakings for the year 2003-2004, as a special case, which is recoverable in 10 equal monthly installments within the financial year, in relaxation of the orders issued in G.O.Ms.No.27, Finance (BPE) Department, dated 21.1.2002. The G.O.(D)No.86, Transport (C1) Department, dated 24.6.2003, reads as follows:

" Government of Tamil Nadu

ABSTRACT

State Transport Undertakings - Sanction of Educational Advance to the employees of State Transport Undertakings for the year 2003-2004 - Orders - Issued.

Transport (C1) Department

G.O.(D)No.86 Date: 24.6.2003

Read:

G.O.Ms.No.27, Finance (BPE)Department,
dated 21.1.2002

Order:

Sanction is accorded for the payment of Rs.1000/- (Rupees one thousand only) as educational advance to the employees of State Transport Undertakings for the year 2003-2004 as a special case in relaxation of orders issued in the Government Order read above considering the views of the High Court, Madras. The amount sanctioned above should be recovered in 10 (ten) equal monthly installments within the financial year.

2. The Managing Directors of all State Transport Undertakings are instructed to take necessary action in this regard.

3. This order issues with the concurrence of the Finance Department vide its U.O.No.2084/FS/P/03, dated 18.6.2003.

(By order of the Governor)

sd/-

Secretary to Government"

7. Even though the petitioner-employees federation claimed a sum of

Rs.1000/- towards Festival Advance and an Educational Allowance of Rs.100/- per child for the purchase of books for a maximum of two children for a worker, irrespective of the salary limit, the Government is kind enough to sanction Rs.1000/- as Educational Advance to each of the employee recoverable in ten equal monthly installments within the financial year. The above consideration and decision of the Government, in my considered opinion, would sufficiently resolve the claim of the petitioner-employees federation.

8. Before parting with, the benevolent gesture of the Government, referred to above, in spite of the strong resistance to the claim of the petitioner-employees federation, is greatly appreciated by this Court, and this Court also records appreciation for the efforts of the learned Advocate General assisted with the learned Additional Government Pleader.

11. In view of the passing of the above Government Order, viz., G.O.(D)No.86, Transport (C1) Department, dated 24.6.2003, no further orders are required in this writ petition.

In the result, this writ petition is disposed of accordingly. No costs.

Index :Yes
Internet:Yes

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