



W.P(MD)No.3254 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.3254 of 2023

and

WMP (MD) No.3020 of 2023

The Management
Y-115 Puliyoorsalai Labour Contract
Cooperative Society,
Rep. by its President Swamydhas
Mancode Post,
Kanyakumar District – 626 152.

... Petitioner(s)

vs.

S.Thulasi

... Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorari, to call for the impugned order dated 09.12.2022 under Reference Claim Petition No. 20 of 2018 CRN No. TNTL 03-000116-2018 on the file of the Presiding Officer (FAC) Labour Court, Tirunelveli in favour of the Respondent and set aside the same as illegal and erroneous forthwith and thus render justice.



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For Petitioner : Mr.S.Palani Velayutham
For Respondent : Mr.R.Thangasamy

ORDER

Challenging the order dated 19.12.2022 passed in Claim Petition No. 20 of 2018 (CRN No. TNTL 03-000116-2018) on the file of the Presiding Officer (FAC), Labour Court, Tirunelveli, the present writ petition has been filed before this Court.

2. The brief facts leading to the filing of the writ petition are as follows:

2.1. The respondent employee claimed that he joined the petitioner Cooperative Society as a Clerk on a consolidated monthly salary of Rs.500/-. According to the respondent, even after completing 480 days of service in two calendar years, he was not made permanent. Therefore, he filed an application under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, before the Labour Inspector seeking conferment of permanent status. The Labour Inspector, by order dated 31.12.2014, granted



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permanent status to the respondent in the post of Secretary with effect from 26.04.1993. The said order was not implemented by the petitioner Society.

2.2. Thereafter, the respondent initially filed C.P. No.135 of 2016 under Section 33-C(2) of the Industrial Disputes Act, 1947 claiming monetary benefits based on the order granting permanent status. Subsequently, the said computation petition was withdrawn and the respondent filed C.P. No.20 of 2018, claiming monetary benefits in the post of Clerk, quantifying the claim at Rs.19,53,545/-. The Labour Court allowed the claim petition. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that a petition under Section 33-C(2) of the Industrial Disputes Act is maintainable only when there exists a pre-existing accrued right and the Labour Court cannot adjudicate disputed rights in a computation petition. It was further submitted that the respondent initially sought conferment of permanent status only in the post of Secretary, impleading only the elected President of the Society. Based on the said application, the Labour Inspector passed an order dated 31.12.2014 granting



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permanent status in the post of Secretary. Subsequently, the respondent filed an amendment petition and by order dated 31.05.2017, the earlier order was amended by substituting the post of Secretary with the post of Clerk. According to the petitioner, once the competent authority had passed the original order, it became *functus officio* and had no jurisdiction to modify its earlier order in the absence of any statutory provision conferring such power.

4. The learned counsel further submitted that the elected Board of the Cooperative Society is entitled to make appointments only within the approved cadre strength and such appointments require prior approval of the Joint Registrar under Rule 149 of the Tamil Nadu Cooperative Societies Rules. Any appointment made contrary to the cadre strength or without such approval is invalid. Since the respondent had impleaded only the President and not the competent statutory authorities, the order granting permanent status is not binding on the competent authority. It was also submitted that, though the petitioner Society did not challenge the order granting permanent status, it passed a resolution forwarding the matter to the Joint Registrar for ratification and the same is still pending.



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5. The learned counsel relied upon the judgment of the Division Bench of this Court in W.A. (MD) Nos. 813 to 816 of 2016 dated 24.06.2026, wherein it was held that a valid appointment is a condition precedent for claiming service benefits and in the absence of a valid appointment, no such benefit can be claimed.

6. Per contra, the learned counsel appearing for the respondent submitted that the respondent was initially appointed as a Clerk and was subsequently promoted as Secretary. Though the respondent had initially sought permanent status in the post of Secretary, it was later realised that the appropriate post was that of Clerk. Accordingly, the respondent withdrew C.P. No.135 of 2016, obtained amendment of the order granting permanent status and thereafter filed C.P. No.20 of 2018 claiming monetary benefits in the post of Clerk. After adjudication, the Labour Court rightly awarded a sum of Rs.19,07,005/-, which does not warrant interference.

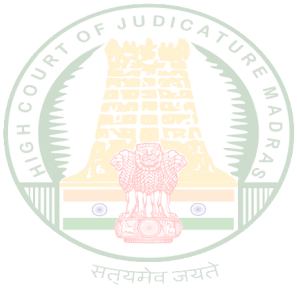


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7. Heard the rival submissions made on either side and perused the impugned order dated 19.12.2022.

8. The facts of the present case are not in dispute. The respondent himself claimed that he was initially appointed as a Clerk, later promoted as Secretary and sought conferment of permanent status in the post of Secretary. The Labour Inspector granted permanent status in the post of Secretary by order dated 31.12.2014. Thereafter, the very same authority, by order dated 31.05.2017, amended the earlier order and granted permanent status in the post of Clerk. This Court is unable to understand how, after passing the original order, the conferment authority could modify its own order in the absence of any statutory power of review or amendment. Once the original order was passed, the authority became *functus officio*. Further, the respondent initially filed C.P. No.135 of 2016, withdrew the same, obtained amendment of the original conferment order and thereafter filed C.P. No.20 of 2018. Such a course of action cannot confer an accrued right for invoking Section 33-C(2) of the Industrial Disputes Act.



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9. This Court also finds that appointments in Cooperative Societies can be made only within the approved cadre strength and with the approval of the Joint Registrar in terms of Rule 149 of the Tamil Nadu Cooperative Societies Rules. The Division Bench of this Court in W.A. (MD) Nos. 813 to 816 of 2016, dated 24.06.2026, has categorically held that there must be a valid appointment before any service benefits can be claimed. Apart from the above, the authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act can grant permanent status only where the establishment satisfies the statutory requirements. In the present case, the respondent himself pleaded that he was the only employee working in the Society. In such circumstances, the jurisdiction of the conferment authority to grant permanent status itself required proper consideration. All these aspects were not properly adjudicated by the Labour Court while allowing the computation petition. Therefore, the impugned order is liable to be set aside.



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10. In the result, the impugned order dated 09.12.2022 passed by the Presiding Officer (FAC), Labour Court, Tirunelveli, is set aside. Accordingly, the writ petition stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

06.07.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes
PKN

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M.DHANDAPANI,J.

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**ORDER MADE IN
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