

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2016

C O R A M

THE HON'BLE Mr.JUSTICE M.S.RAMESH

W.P.No.5811 of 2013

&

M.P.No.1 of 2013

K.Sekar

... Petitioner

Versus

The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus calling for the records of the respondent relating to the impugned order in Reference No.32/1532/NI7/THA.Aa.PO.KA (VILLU)/2005 dated 01.09.2005 and quash the same as illegal and consequently directing the respondent to issue order of regularisation of service of the petitioner after completion of 240 days and in the time scale of pay and to pay all the other monetary benefits and service benefit that may arise thereon within a time limit.

For Petitioners : Ms.K.Lakshmi
for Mr.R.Y.George Williams
(in both W.P.)

For Respondent : Mr.P.Kannan Kumar, Senior Counsel
(in both W.P.)

ORDER

Heard Ms.K.Lakshmi, learned counsel appearing for the petitioner; and Mr.P.Kannan Kumar, learned senior counsel appearing for the respondent.

2. Challenging the order dated 01.09.2005 whereby the petitioner was confirmed with a permanent status of service with effect from 01.09.2005, the present writ petition is filed.

3. Learned counsel appearing for the petitioner would submit that, the petitioner should have been confirmed with permanent status with effect from the date when the petitioner had completed 240 days of uninterrupted service and not from 01.09.2005 and therefore the impugned order should be set aside with a modification that the petitioner's permanent status should be confirmed with effect from the date on which he had completed 240 days.

4. Learned counsel appearing for the respondent would submit that as per 12(3) settlement entered into between the Management and the Union, in which it was specifically agreed that the petitioner along with the other employees were agreed to be confirmed with the permanent status with effect from 01.09.2005 and in view of the same, the present prayer sought for in these writ petition cannot be considered.

5. At this juncture the learned counsel for the petitioner, produced a copy of an order dated 22.02.2013 passed in W.P.Nos.24107 to 24118 of 2012 wherein identically placed persons had approached this Court seeking for regularisation of permanent status of 240 days and this Court had passed the following orders:-

"[1. The contention of the petitioners was that they should be regularised immediately after completing 240 days of service as daily wage labourer and the present impugned orders giving a different rate than the one under they are entitled to get regularisation on completion of 240 days of service, was erroneous.

2. However, when a similar matter came up before this Court in W.P.No.21067 of 2012, this Court passed the following order dated 06.11.2012:

" It is brought to the notice of this Court that when similar matters came up before this Court in a batch of writ petitions (W.P.Nos.18364 of 2012 etc.,) on 02.08.2012, after hearing the parties and after hearing the learned Advocate General, this Court passed the following order:

Recording the submission made by the learned counsel for the respondent, these writ petitions are disposed of granting liberty to the petitioners to submit representation individually before the respondent in the respective writ petitions within two weeks from the date of the receipt of a copy of this order and on receipt of the same, the

concerned respondent is directed to consider the said individual representation of the petitioners to be filed and pass orders on merits and in accordance with law within a period of three months from the date of the receipt of the individual representation from the petitioners."

The same benefit will also apply to the petitioners.]"

6. Though the petitioner has sought for a larger relief to quash the impugned order dated 01.09.2005, the learned counsel appearing for the petitioner, at this juncture, would submit that if a similar order is passed in this writ petition, he would be satisfied. Under such circumstances, there shall be a direction to the petitioner to submit a fresh representation to the respondent setting forth all his grievances with regard to regularisation of their services and on receipt of the said representation the respondent shall consider the same on its own merits, without reference to the impugned order dated 01.09.2005, and pass orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly this writ petition is disposed of. No costs. Consequently Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

DPQ

To

The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram District.

+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.65103

W.P.No.5811 of 2013

&

M.P.No.1 of 2013

SV(CO)
CA(18/11/2016)