

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:18.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.3388 & 3389 of 2015 &

M.P.NO 2 of 2015 & WMP No.4946 of 2016 and

M.P.Nos.1 & 2 of 2015

The Management
Tamil Nadu State Transport Corporation Salem Ltd.,
rep. by its General Manager ... Petitioner in both W.Ps.

Versus

1.The Presiding Officer
Labour Court,
Salem.

.. R1 in both W.Ps.

2.M.Nallathambi

.. R2 in W.P.No.3388 of 2015

3.K.Ramesh

.. R2 in W.P.No.3389 of 2015

Common Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for the Writs of Certiorari to call for the records of the orders passed in I.D.Nos.595 & 601 of 2001 dated 06.07.2013, on the file of the first respondent, and to quash the same as illegal and against the provisions of the Industrial Disputes Act.

For Petitioner : Mr.R.K.Gandhi
(in both W.Ps)

For Respondents : Court - R1
(in both W.Ps) Mr.S.Ayyathurai - R2

C O M M O N O R D E R

Heard Mr.R.K.Gandhi, learned counsel appearing for the petitioner in both Writ Petitions and Mr.S.Ayyathurai, learned Counsel appearing for second respondent in both Writ Petitions and with the consent of the learned counsel on either side, the Writ Petitions are taken up for final disposal.

2(i) The Writ Petitions have been filed challenging the Award passed in I.D.Nos.595 of 2001 and 601 of 2001 dated 06.07.2013. The petitioner in both the Writ Petitions is the Management of Tamil Nadu State Transport Corporation Ltd, Salem Division and the second respondent in the respective writ petitions were initially employed as Conductor on a casual basis and when they were denied employment, they raised Industrial Disputes along with other similarly placed persons stating that their non-employment is wholly unjustified, arbitrary and illegal.

(ii) The Management took a stand that they were engaged only as casual workers on day today basis to meet the emergency situations and the question of absorbing them or issuing any notice prior to their dis-engagement does not arise, since they were not appointed through the Employment Exchange and therefore, the action of the Management is justified.

(iii) With the above facts, the parties went for trial and before the Labour Court, the workmen have been examined as P.Ws 1 & 2, and marked six documents as Exs.P1 to P6. However, the petitioner/Management neither lead any oral nor produced any documentary evidence. On the pleadings and the documents produced by the workmen, the Labour Court framed two questions for consideration viz.

(1) as to whether the denial of employment of the workmen who have completed 240 days of continuous service is proper and justified ? and

(2) as to whether the workmen are entitled for the relief of reinstatement together with continuity of service and backwages ?

(iv) With regard to Issue No.(1), the Labour Court took into consideration Section 25-B of the Industrial Disputes Act, which defines continuous service and after analysing the factual position, examined as to whether the workmen had established their plea of continuous service. On being satisfied that the workmen have discharged the initial burden cast upon them, the Labour Court took note of the fact that the Management neither lead any oral or documentary evidence to establish their stand in the counter statement, held that the discharge of the workmen from service who have completed more than 240 days, is unjustified.

(v) With regard to Issue No.2, which related to the relief as to whether the workmen are entitled for the relief of reinstatement together with continuity of service and backwages or not, the Labour Court took into consideration of Section 25-H of the Act and held that the workmen are not entitled for reinstatement with backwages and continuity of service, but the Management was directed to take them as a fresh entrant.

3.Thus, the reasons assigned by the Labour Court was cogent and there is no perversity in the approach and the Management having miserably failed to substantiate their stand which was raised in the counter statement and in the absence of any oral or documentary evidence on the side of the Management, the factual findings recorded by the Labour Court are just and proper.

4.For all the above reasons, no grounds have been made out to interfere with the reasoned Award passed by the Labour Court. Accordingly, the Writ Petitions fail and the same are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rpa
To

1.The Presiding Officer
Labour Court,
Salem.

+2 ccs to M/s.S.Ayyathurai Advocate sr.17602 & 17601

W.P.Nos. 3388 & 3389 of 2015

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