

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2017

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.4606 of 2016 &
W.M.P.No.3966 of 2016

The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Sipcot Complex, Vengikal,
Thiruvannamalai. ..Petitioner

Vs.

1.S.Ramesh
2.R.Dharani Kumar
3.E.Panneerselvam
4.B.Udhayasuriyan
5.A.Velmurugan
6.T.Murugan
7.T.Madhavan
8.K.Sudhakaran
9.R.Gopidoss
10.T.Venkatesan
11.R.Dhandapani
12.The Inspector of Labour
Thiruvannamalai. ..Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records relating to the order made in case No.4337 of 2014 dated 21.05.2015 on the file of the 12th respondent/Inspector of Labour, Thiruvannamalai and quash the same.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.S.N.Ravichandran for R1 to 11
Mr.M.Elumalai
Government Advocate for R12

O R D E R

The Regional Manager of Tamil Nadu Civil Supplies Corporation Limited, Sipcot Complex, Thiruvannamalai, has brought this writ petition questioning the correctness of the impugned order passed by the the Authority /the Inspector of

Labour, Tiruvannamalai, under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, directing the petitioner to confer permanent status to the respondents 1 to 11 on the basis of the finding given that they have completed 480 days of continuous service in the petitioner Corporation within two years, as contemplated under Section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

2.The grievance of the petitioner shows that the Inspector of Labour, Tiruvannamalai, without considering the factual and legal positions and the rules and regulations of the Corporation, wrongly directed the petitioner to give permanent status to the individuals, since the respondents 1 to 11 have not proved that they have worked for 480 days within a continuous period of 24 calendar months under the petitioner Corporation. It is also one another ground taken before the Inspector of Labour, Tiruvannamalai/12th respondent explaining the fact that the respondents 1 to 11 have not been appointed by the Corporation and that they had worked only on daily wages basis, therefore, they are not eligible for regularisation under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

3.Learned counsel for the petitioner, again assailing the impugned order, would submit that when the respondents 1 to 11 were not employees of the petitioner Corporation, no relevant documents were produced by them establishing the legal aspects as to whether they were the employees of the petitioner Corporation or they have worked for a period of 480 days continuously in 24 calendar months, as stipulated by Section 3 (1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status) Act, 1981. Therefore, the impugned order is liable to be set aside, he prayed.

4.Per contra, Mr.S.N.Ravichandran, learned counsel for the respondents 1 to 11, refuting the contentions made by the learned counsel for the petitioner, had submitted that when all the respondents 1 to 11 were admittedly appointed by the petitioner Corporation as daily workers, it is not open to them to say that there is no relationship between the employer and employees. This issue was rightly answered by the 12th respondent referring two important letters dated 18.03.2015 and 16.04.2015, more particularly, while referring to letter dated 16.04.2015, a clear observation has been made by the 12th respondent stating that it is the case of the petitioner Corporation that in the said letter dated 16.04.2015, a proposal/recommendation has been made by the petitioner Corporation for permanently absorbing all the respondents 1 to 11. Therefore, when the petitioner Corporation, considering the fact that the respondents 1 to 11 are working continuously even today and a letter dated

16.04.2015 has been sent to the Government recommending their case for absorption, the 12th respondent/Inspector of Labour, Tiruvannamalai has candidly analysed the case of the petitioner on the basis of their own letter dated 16.04.2015 recommending the case of the respondents 1 to 11 that they have to be permanently absorbed under the petitioner Corporation, after giving a finding that they were continuously working from 10.04.2004 to 03.08.2005 in respect of respondents 1 to 6, 16.10.2009 to 08.02.2011 in respect of 7th respondent and 17.08.2012 to 10.12.2013 in respect of respondents 8 to 11, for a period of 480 days continuously in 24 calendar months, therefore, the writ petition should not have been filed, as there is no infirmity in the impugned order, he pleaded.

5.I fully agree with the submissions made by the learned counsel for the respondents 1 to 11. The finding of the 12th respondent authority clearly shows that a letter dated 16.04.2015 was sent to the Government specifically making out the case of the respondents 1 to 11 that they have worked continuously for a period of 480 days in 24 calendar months for the aforementioned periods. Therefore, this Court, finding no infirmity in the impugned order passed by the Inspector of Labour, Tiruvannamalai, has no other option except to confirm the same.

6. Accordingly, the writ petition is dismissed by directing the petitioner Corporation to implement the order of the 12th respondent within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is dismissed. No costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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To
The Inspector of Labour
Thiruvannamalai.

+1cc to Mr.S.N.Ravichandran,Advocate sr.13900
+1cc to Mr.C.Munusamy,Advocate sr.13915

W.P.No.4606 of 2016 &
W.M.P.No.3966 of 2016

nm(co)
ss(17/4/2017)