



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.6893 of 2017

P.Muthu

... Petitioner

Vs.

1.The Management,
Tamilnadu State Transport Corporation,
Madurai Limited,
Bye-Pass Road,
Madurai.

2.The Inspector of labour,
TNHB Complex,
Ellis Nagar,
Madurai-625 016.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue a Writ of Mandamus, directing the first respondent to regularize the service of the petitioner, as per the order passed by this Court in W.P.No.9739 of 2014 dated 10.12.2014 and also to the order passed by the second respondent in his proceedings in Na.Ka.No.Aa/3517/12 dated 21.08.2013, within a stipulated period fixed by this Court.

For Petitioner :Mr.J.Jeyakumaran

For Respondents :Mr.A.P.Muthupandian
Standing Counsel for TNSTC

ORDER

This Writ Petition is to direct the first respondent to regularize the service of the petitioner as per the final order passed by this Court in W.P.(MD)No.9739 of 2014, dated 10.12.2014.

2.The petitioner was appointed as a driver by the first respondent by order dated 22.04.2010. The petitioner's appointment was purely based on the temporary basis. Since, the petitioner completed more than 480 days of service and the petitioner was employed for nearly 508 days during the period of 2 years, the petitioner made a request to the 1st respondent to regularize the petitioner's service. Since, the first respondent did not regularize the petitioner's service, the petitioner filed a petition before the second respondent, namely, the Inspector of



labour to regularize his service. The second respondent passed an order dated 21.08.2013, directing the first respondent to regularize the petitioner's service in the post of driver with effect from 03.06.2010.

3. Though the first respondent filed a Writ Petition before this Court in W.P.(MD)No.9739 of 2014, challenging the order of the second respondent dated 21.08.2013, the said petition was dismissed, by an order dated 10.12.2014, with a direction to the first respondent to regularize the service of the petitioner as per the order passed on 21.08.2013. Since, the Writ Petition filed by the first respondent was dismissed on 10.12.2014 by this Court, the 1st respondent has to regularize the service of the petitioner and absolutely, there is no justification in keeping the issue pending.

4. The learned standing counsel appearing for the first respondent submitted that the first respondent has filed a Writ Appeal and the same is pending before this Court in SR.No.22142 of 2017.

5. The submission of the learned standing counsel indicates that Writ Appeal has been filed very recently in 2017, probably, after this matter was listed for hearing before vacation. This Court does not find anything prima facie in favour of the first respondent and thus no justification for non implementation of the order by the first respondent, who is the statutory authority. Having regard to the factual background and some factual issue is now raised after this limit of time, this Court is not inclined to accept the case of respondents to defer the decision on merits till the disposal of belated appeal which is yet to be numbered.

6. With the above observation, the first respondent is directed to regularize the petitioner's service, as per the direction of the second respondent dated 21.08.2013 within a period of two weeks from the date of receipt of a copy of this order. However, the first respondent is at liberty to pass appropriate order in future depending upon the final order that may be passed in the Writ Appeal if the delay is condoned.

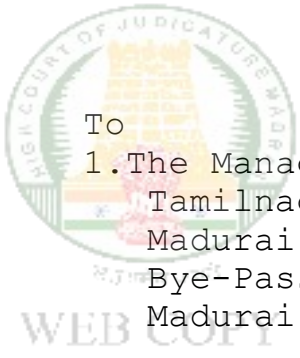
7. Hence, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar.



To

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Bye-Pass Road,
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2.The Inspector of labour,
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Ellis Nagar,
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+1CC to M/S.J.Jeyakumaran, Advocate, SR.No. 59701

W.P.(MD) No.6893 of 2017

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AM/SKN RSK/SAR 3/04.07.2017/3P/4C