

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.12121 of 2003
and
WPMP No.15229 of 2003

Regional Research Station (ICRI)
SPices Board,
Thadiyan Kudisai, Perumparai 624 212,
Rep. by its Scientist In-Charge.

.... Petitioner

Vs.

1.Inspector of Plantations Authority
under the Tamilnadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act 1981,
Batlagundu,
Dindigul District.

2.Sri.B.Maniarasan

.... Respondents

Prayer: Writ Petition filed Under Article 226 of the
Constitution of India to issue of Writ of Certiorari to call for
the records of the First Respondent made in Application
No.990/2002 dated 28.02.2003 and quash the same.

For Petitioner : Mr.S.Silambanan
Senior Counsel
for Mr.N.Umapathy

For Respondents : Mr. K.S.Suresh for R1
Government Advocate
Mr.K.Elango for R2

O R D E R

Heard Mr.S.Silambanan, learned Senior Counsel appearing for the Petitioner, Mr.K.S.Suresh, learned Government Advocate appearing for the First Respondent and Mr.K.Elango, learned counsel appearing for the Second Respondent.

2.The Writ Petition challenges the order dated 28.02.2003 passed by the First Respondent conferring permanent status on the Second Respondent, who was employed by the Petitioner, under the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status of Workmen) Act, 1981.

3.Mr.S.Silambanan, learned Senior Counsel appearing for the Petitioner, challenging the impugned order urged that though the establishment of the Petitioner is a Plantation, to which that law applies, the First Respondent had not taken note of the fact that the employment of the Second Respondent was seasonal in character and as such, the Second Respondent could not be extended the benefits conferred by the said enactment.

4. In response to that contention, Mr.K.Elango, learned counsel appearing for the Second Respondent relying on the decision of the Division Bench of this Court reported in Mamundiraj N. vs. Bharat Heavy Electricals Limited (1999-1-LLJ 662 (Madras)), submits that as per Section 3(f) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status of Workmen) Act, 1981, cessation of work, which is not due to any fault on the part of the workman as well as the period laid off under an agreement or as permitted by the Standing Orders or under any other law, would be deemed to be 'continuous service' for the purpose of conferring the benefits of that enactment. In this regard, emphasis is placed on paragraph 14 of the said judgment, which reads as follows:-

"14.In pith and substance by reading Section 3 of the 1981 Act, it emerges that irrespective of anything contained in any other law, a workman in continuous service for a period of 480 days during a period of 24 calender months in an industrial establishment would be conferred the status of permanent employee. For counting the period of continuous service, the period of interrupted service of specified nature mentioned in the deeming definition, should be included in the service. In other words, Section 3 envisages concomitant (sic) for conferring the permanent status on a workman (i) who is in a continuous service for a period of 480 days (ii) within a period of 24 calender months in an industrial establishment, (iii) period interrupted on account of (a) sickness (b) authorised

leave, (c) accident (d) strike, which is not illegal (e) lock-out and (f) cessation of work, which is not due to any fault on the part of the workman, has been, by deeming provision, included in the continuous service, the explanation further deemed continuous

service during laid off period under an agreement or as permitted by the Standing Orders or under any other law applicable to the Industrial Establishment or one who has been on leave with full wages, earned in the previous year, or has been absent due to temporary disablement caused by accident arising out of and in the course of employment or in the case of a female, she has been on maternity leave."

This decision has been followed by a Learned Judge of this Court in Tata Tea Limited, rep. by its Deputy General Manager vs. State of Tamilnadu, (2010-II-LLJ 762 (Madras)) in respect of a plantation.

5. In view of the aforesaid binding decisions of this Court governing the matter in issue, there are no merits in the Writ Petition and the same is dismissed. The connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

Vri

To

Inspector of Plantations Authority
under the Tamilnadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act 1981,
Batlagundu, Dindigul District.

+1cc to Mr.K.Elango, Advocate SR.No.51213

+1cc to Government Pleader SR.No.51915

W.P.No.12121 of 2003

GMV (19/09/2018)