



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2018

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THE HON'BLE MR. JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

W.A. (MD) No.1458 of 2018
and C.M.P. (MD) No.10242 of 2018

The Management,
Tamil Nadu State Transport Corporation
(Madurai Division - V) Ltd.,
Bypass Road,
Madurai District - 625 010.

... Appellant

Vs.

1.The Presiding Officer,
Labour Court, Madurai.
2.The General Secretary,
Pandian Transport Labour Union, Madurai,
46, South Main Road,
Thideer Nagar,
Madurai - 1.

... Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 03.01.2018 made in W.P.(MD) No.19758 of 2014.

Prayer in WP(MD) . 19758/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records in I.D.No.146/2001 dated 4.7.2013 on the file of the 1st respondent and quash the same.

For Appellants : Mr.A.Jeyaram
1st Respondent : Court

For 2nd Respondent : Mr.S.Arunachalam

JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]



available on record was pleased to confirm the award passed by the Labour Court in I.D.No.146 of 2001.

2.The appellant had engaged hundreds of workers as bus body cleaners on contract basis. As they have not been regularised, a dispute was raised by the respondent Union. It was referred to the Labour Court, Madurai. Reference was accordingly allowed directing the appellant to regularize the services. This was put to challenge before the learned Single Judge. The learned Single Judge after taking note of the restrictions on the judicial review of the inferior Tribunals was pleased to dismiss the writ petition. Hence, the writ appeal.

3.The learned counsel appearing for the appellant would submit that the members of the second respondent instead approaching the Inspector of Labour has approached the Labour Court. The entry being back door, the members of the second respondent is not entitled for permanent status.

4.As rightly submitted by the learned counsel appearing for the second respondent, this issue is no longer res-integra. Considering the very same issue and considering the plea of bus body cleaners of the appellant, the Division Bench of this Court in W.A. No.1188 of 2011 by judgment dated 16.11.2014 was pleased to hold as follows:

"5.The case on hand is squarely covered by the aforesaid decision of the Honourable Supreme Court reported in 2009-8-SCC-556 cited supra. We do not find any illegality or perversity in the impugned award of the Industrial Tribunal as well as the order of the learned Single Judge of this Court. Therefore, we do not find any reason to interfere with the impugned order of this Court and this Writ Appeal deserves to be dismissed and accordingly, it is dismissed. No costs. Consequently, the connected MPs are closed."

A challenge made to the Hon'ble Apex Court was also rejected in S.L.P.Nos.031558 and 018736 of 2015. Further more, the Hon'ble Apex Court in **Maharashtra State Road Transport Corporation and another v. C.R.P.K.Sanghatana [2010 (3) L.L.N. 552]** was pleased to hold that the ratio laid down by **Secretary, State of Karnataka and others v. Umadevi and others [2006 (3) L.L.N. 78]** has no application to the dispute raised under Industrial Disputes Act.

5.As rightly held by the learned Single Judge, while exercising the power under Article 226 of the Constitution of India, factual disputes cannot be gone into, which has been dealt with by inferior Tribunal. The Tribunal has passed a speaking award. The learned Single Judge relied on the materials available on record while dismissing the writ petition. The issue involved is also no longer res-integra, in view of the confirmation of the judgment of the Division Bench of this Court by the Hon'ble Apex Court. There is no merit in this appeal and the same is liable to be dismissed.



6. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected civil miscellaneous petition is also dismissed.

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To

1. The Presiding Officer,
Labour Court, Madurai.

+1cc to Mr.S.Arunachalam Advocate in SR.No.91533

+1cc to Mr.A.Jeyaram Advocate in SR.No.91511

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SJ

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