



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.19758 of 2014

and

M.P.(MD) No.1 of 2014

The Management,
Tamil Nadu State Transport Corporation
(Madurai Division V) Limited,
Bye-Pass Road, Madurai - 10.

...Petitioner

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

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in I.D.No.146/2001 dated 04.07.2013 on the file of the first respondent and quash the same.

For Petitioner	:Mr.A.Jeyaram
For R1	:Court
For R2	:Mr.S.Arunachalam

O R D E R

The Management of Tamil Nadu State Transport Corporation, Madurai questions the award dated 04.07.2013 passed by the Labour Court, Madurai in I.D.No.146 of 2001 filed by the second respondent herein.

2.The second respondent is a registered trade union. It raised an industrial dispute and the same was referred for adjudication before the Labour Court, Madurai in I.D.No.146 of 2001. The case of the second respondent is that the Transport Corporation had employed more than 100 workmen as bus body cleaners on contract basis. They were paid wages on a piece rate basis. They were working for more than 480 days in a period of 24 calendar months consecutively. So according to the second



respondent union the said workmen are entitled to conferment of permanent status. Instead of going before the authorities constituted under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, the second respondent raised an industrial dispute and went before the labour Court.

3.The writ petitioner herein filed their counter opposing the claim made by the said union. All that the writ petitioner would state in their counter was that the persons whose cause was espoused by the second respondent were not the workmen of the Corporation. Before the labour Court, the union representative examined himself as W.W.1. On the side of the writ petitioner management, one official was examined as M.W.1. On the side of the union, as many as 4 documents were filed. On the side of the writ petitioner no documents were marked. The management took the stand that no document is available with them.

4.The labour Court on a careful consideration of the material on record gave a finding that the members whose names are furnished in the list filed by the union were very much working in the Transport Corporation for a period beyond 480 days in 24 calendar months consecutively. An observation has been made in the impugned award that the management did not specifically dispute the contents of the list filed by the union. It is obvious that the persons represented by the second respondent union had actually been working in the Transport Corporation. They would have been paid. Therefore, for the management to say that they are not having any record with them would go to show that the management was not contesting the proceedings in a bona fide manner. That is why the Labour Court employed strong terms and found the management to be guilty of indulging in unfair labour practice. The labour Court had further remarked that the management had not co-operated in unraveling the truth.

5.The learned counsel appearing for the second respondent Union placed reliance on the decision of the Hon'ble Supreme Court reported in (2011) 6 Supreme Court cases 584 - Devinder Singh Vs. Municipal Council Sanaur. In paragraph 13, it had been held that the sources of employment, the method of recruitment, the terms and conditions of employment / contract of service and the quantum of wages and the mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. There is no distinction also between full time and part time employee or a person appointed on contract basis.

6.In view of the aforesaid decision of the Hon'ble Supreme Court, in view of the provisions of Section 2(s) of the Act, the contentions raised in the present writ petition that the members of the second respondent union were not employed through employment exchange



deserves to be rejected. The aforesaid decision relied on by the learned counsel for the second respondent provides a complete answer to the contentions raised by the learned counsel for the petitioner / Transport Corporation. The said decision is also an authority for the proposition that the jurisdiction of this Court in interfering with an award passed by the labour Court is rather limited.

7.A Writ of Certiorari can be issued only if the labour Court can be said to have acted without jurisdiction or in excess of jurisdiction or illegally or improperly. The grounds raised by the Transport Corporation do not make out a case for interference on any of such grounds. The labour Court rightly directed the Transport Corporation to treat the bus body cleaners as permanent workers and to allow for the benefits which they are legally entitled to.

8.The learned counsel for the petitioner would contend that there is no sanctioned post of bus body cleaners. The Corporation had admittedly engaged the service of such persons for carrying out certain works. They were also engaged far beyond the period of 480 days in 24 consecutive calendar months. Hence, the writ petitioner cannot be heard to contend that there is no sanctioned post of bus body cleaners. As already pointed out the scope for interference in such matter is rather limited. There is no merit in this writ petition. It stands dismissed. The writ petitioner is directed to comply with the impugned award of the labour Court within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court, Madurai.

+1CC to Mr.A.Jeyaram, Advocate, SR.No. 40147
+1CC to Mr.S.Arunachalam, Advocate, SR.No. 40339

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