



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2018

CORAM

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN****W.P. (MD) No.12147 of 2017****and****WMP (MD) Nos.9365 and 9366 of 2017**

The Management  
Tamilnadu State Transport Corporation  
(Madurai) Limited,  
Bye Pass Road,  
Madurai - 16.

... Petitioner

-vs-

1. The Inspector of Labour,  
Ellis Nagar,  
Madurai - 625 016.

2. K.M.Ramesh  
S/o.Malaichamy,  
2/315, Thamarai Veethi,  
Sakthi Nagar, 3<sup>rd</sup> Cross Street,  
Ayyarbangalow,  
Madurai -14.

... Respondents

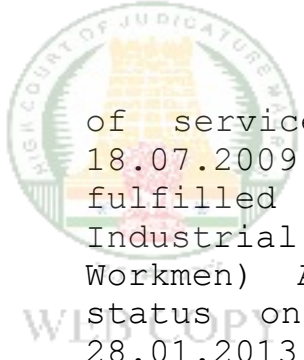
Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate Writ or Order or Direction calling for the records of the 1<sup>st</sup> respondent in his proceedings in Na.Ka.No.Aa/2238/2012 dated 28.01.2013 and quash the same.

|                |                                                |
|----------------|------------------------------------------------|
| For Petitioner | : Mr.A.Jeyaram                                 |
| For R1         | : Mrs.S.Srimathy<br>Special Government Pleader |
| For R2         | : Mr.S.Saji Bino                               |

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O R D E R

The second respondent herein was recruited as a Reserve Driver in the TNSTC Madurai. He joined the service on 18.07.2009. He was recruited as a temporary employee. He was paid on a consolidated basis. The fact remains that he completed 480 days



of service within 24 consecutive calendar month i.e., from 18.07.2009 to 12.02.2011. Since the second respondent herein fulfilled the conditions set out in Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, the first respondent conferred permanent status on the second respondent herein by an order dated 28.01.2013. This order passed by the first respondent is assailed in this writ petition.

2.The primary contention raised by the learned standing counsel for the Management is that disciplinary action was pending against the second respondent herein when he moved the first respondent authority. The learned standing counsel also brought to the notice of this Court that the second respondent came to be dismissed from service by order dated 02.05.2013. The Management has since filed an approval petition before the Joint Commissioner of Labour, Thenampet, Chennai, the approval petition is presently being enquired into and orders yet to be passed. The contention of the learned standing counsel for the Management that the pendency of disciplinary action against the workman would be a bar for him to claim permanent status cannot be accepted. The case on hand will have to be determined by referring to section 3 of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. Therefore, if the workman concerned satisfies the condition set out in Section 3 of the Act, his application and claim will have to be necessarily allowed. The only requirement is that the workman should have been in continuous service for the period of 480 days within a period of 24 calendar months in the Establishment. If this condition is fulfilled, he shall be made permanent. The expressions used in Section 3(1) are "Notwithstanding anything contained in any law for the time being in force" and "shall be made permanent".

3.In view of the explicit language of the said statutory provision, this Court has to necessarily reject the stand of the Management. It is however made clear that the outcome of this writ petition cannot have any bearing on the pending approval proceedings before the Joint Commissioner, Thenampet, Chennai. The said petition will have to be independently dealt with.

With these observations and clarifications, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-  
Assistant Registrar (AS)



To

1. The Inspector of Labour,  
Ellis Nagar,  
Madurai - 625 016.

2. The Joint Commissioner of labour,  
Tenampet, Chennai.

+1 cc to Mr.S.Sai Bino, Advocate IN SR No.50733

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PK/CSL/SAR-4/01.06.2018 : 3P/4C