



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.3560 of 2016

and

WMP (MD) No.3181 of 2016

The President / Managing Director,
A.1216, Dindigul Agricultural
Producer's Co-operative
Marketing Society Limited,
No.1, Chellandiammal Kovil 1st street,
Palani Salai, Dindigul 624 001.

... Petitioner

Vs.

1. The Inspector of Labour,
O/o. The Inspector of Labour,
Dindigul.

2. P.Jegannathan

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the file of the first respondent in ப.நி.வ.ச.எண்.10/2013 dated 08.04.2015 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents : Mr.K.Saravanan,
Government Advocate for R1
No appearance for R2

ORDER

The petitioner is a registered Cooperative Society. The second respondent herein is employed as a Salesman in the petitioner society. He joined the service of the petitioner society on 05.08.1998. He was however terminated on 18.06.2001. The order of termination was set aside and the second respondent was directed to be reinstated in service.

2.Pursuant thereto, the second respondent was reinstated in service with effect from 03.10.2003. He has been working continuously as Salesman ever since. Therefore, he filed an application before the first respondent herein seeking conferment of permanent status. The first respondent by the impugned order dated 08.04.2015 allowed the application. The same is questioned in this writ petition.



3.The learned counsel appearing for the petitioner would contend that the second respondent was a back door entrant. He placed reliance on the Full Bench decision of this Court reported in **(2007) 6 MLJ 455 (R.Rathakrishnan v. Dy. Registrar of Co-operative Societies)**.

4.This Court is of the view that the Full Bench decision has no application to this case. This is because, the second respondent was terminated from service in the year 2001 and the said termination order was set aside by the appellate authority under the Tamil Nadu Shops and Establishments Act. The employer had filed a writ petition questioning the same. Pursuant to the interim order passed by this Court, the second respondent was also reinstated in service in the year 2003. The second respondent has been continuously working ever since.

5.Therefore, the authority rightly held that the second respondent is entitled to be conferred with the status of permanency. It is not the case of the petitioner that if the service of the second respondent is regularized, it would exceed the cadre strength. Considering the long length of the service put in by the second respondent i.e., from 1998 onwards, this Court is of the view that the authority rightly granted relief to the second respondent. There is no merit in this writ petition.

6.This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Inspector of Labour,
O/o. The Inspector of Labour,
Dindigul.

SKM

VB/PN/SAR2/16.07.2018/2P/2C

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