



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 06.09.2018

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P (MD) No.1257 of 2013

WEB COPY

1.J.Jeyakumar

2.K.Ganesan

..Petitioners

Vs

1.The Commissioner,
Milk Production and Dairy Development,
Mathavaram,
Chennai-51.

2.The Management ,
Sivagangai District Cooperative Milk Producers Union Limited,
Siruval Road, Kalanivasal,
Karaikudi - 2.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to confer permanent status to the Petitioners as per the order of the Labour Inspector, Sivagangai dated 5.1.2012 in No.Aa/525/2011 and consequently direct the second respondent to settle the entire arrears of pay and monetary benefits to the Petitioner w.e.f. 15.3.1997.

For Petitioner :Mr.S.M.Mohan Gandhi

For Respondent-1 :Mr.S.Dhayalan
Government Advocate

For Respondent-2 :Mr.S.Visvalingam

ORDER

The Petitioners have come forward with this Writ Petition seeking to issue a Writ of Mandamus directing the second respondent to confer permanent status to them as per the order of the Labour Inspector, Sivagangai, dated 5.1.2012 in No.Aa/525/2011 and consequently direct the second respondent to settle the entire arrears of pay and monetary benefits to the Petitioners w.e.f. 15.3.1997.

2. Heard both sides.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The Petitioners having completed 480 days of continuous



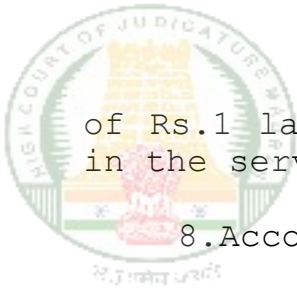
service in 24 calendar months, had approached the Inspector of Labour seeking permanent status. The appellate authority by order 5.1.2012 w.e.f 15.3.1995 granted permanent status to the Petitioners. The said order has become final and it has not been questioned. In this case, as per the statement, more particularly under the deeming provisions of Section 3 of the Tamil Nadu Industrial Establishment (conferment of Permanent Status to workman) Act, 1981, the Petitioners are entitled to the benefit which has been granted by the authority and the same has not been implemented as on date.

4. In support of their case, the Petitioners drew reference to the decision of this Court in the case of D. Roselin Joyce vs. Tamil Nadu Civil Supplies Corporation Ltd., (2016 (III) LLJ 345 (Mad.)) rendered in W.A.Nos.1425 to 1434 of 2015, W.A.Nos.360 to 369 of 2016 on 14.06.2016, whereby, the Court ordered regularization of service of the employees therein from the date of completion of 480 days in a period of 24 calendar months as contemplated under Sections 3 and 4 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 and also directed to fix the time scale of pay and to pay the back-wages from the date of regularization of the employees. The Petitioners herein sent representations to the Respondents 1 and 3 on 18.12.2017 by Registered Post, requesting the said Respondents to pass suitable orders conferring permanent status to them as Carway Boys in the Petrol and Diesel Bunk at Thirupattur with effect from 23.11.1998 with the time scale of pay, with all attendant service benefits and direct the payment of arrears of salary from 23.11.1998.

5. It is represented by the second respondent that proposal for conferment of permanent status have already been submitted to the first respondent and the first respondent has not taken any decision. The learned counsel for the first respondent would submit that the request of the Petitioners may be considered within the time that may be fixed by this Court.

6. Hence this Court is inclined to grant the Petitioners the relief sought for by them, as already the petitioners are enjoying the benefit of the order of the statutory authority.

7. Accordingly, the respondents are directed to implement the order of the statutory authority within a period of two months from the date of receipt of a copy of this order, conferring permanent status to the Petitioners and the arrears will have to be paid in six equal monthly instalments commencing from 1.11.2018. The first instalment to be paid on or before 2.11.2018, as Deepavali festival is fast approaching and the second instalment on or before 10th of succeeding month. If the above order is not complied with by the first respondent, as the Petitioners have attained the permanent status in terms of deeming provisions of 1981 Act, the first respondent will have to be divested of the post and he has to be posted in any one of the non-sensitive post, apart from payment



of Rs.1 lakh towards cost. This adverse remarks have to be entered in the service records of the first respondent.

8. Accordingly, the Writ Petition stands allowed. No costs.

Sd/

Assistant Registrar (CO)

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/True copy/

Sub Assistant Registrar (CS-I)

To

1. The Commissioner,
Milk Production and Dairy Development,
Mathavaram,
Chennai-51.

2. The Management ,
Sivagangai District Cooperative Milk Producers Union Limited,
Siruval Road, Kalanivasal,
Karaikudi - 2.

+1cc to Mr.S.VISVALINGAM, Advocate, SR.No.82626

+1cc to Mr.S.H.MOHAN GANDHI, Advocate, SR.No.82697

+1cc to M/s.Special Government Pleader, SR.No. 83348

W.P (MD) No.1257 of 2013
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VSN

KK/RP/SAR-1/17.10.2018/3P-6C