

n IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM :

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A.No.1002 of 2018
and
C.M.P.No.8508 of 2018

The Regional Manager,
Tami Nadu Civil Supplies Corporation Ltd.,
Sidco Complex, Vengikal,
Thiruvannamalai. Appellant/Petitioner

vs.

1.S.Ramesh
2.R.Dharani Kumar
3.E.Panneerselvam
4.B.Udhayasuriyan
5.A.Velmurugan
6.T.Murugan
7.T.Madhavan
8.K.Sudhakaran
9.R.Gopidass
10.D.Venkatsan
11.R.Thandapani
12.The Inspector of Labour,
Thiruvannamalai. Respondents

Writ Appeal filed under Clause 15 of Letters Patent Act
against the order dated 03.03.2017 passed in W.P.No.4606 of 2016.

Writ Petition filed under article 226 of the Constitution of
India praying to issue a Writ of Certiorari calling for the
records relating to the order made in Case No. 4337/2014 dated
21.5.2015 on the file of the 12th respondent/Inspector of Labour
Thiruvannamalai and quash the same.

For Appellant : Mr.P.Paramasivadoss

For Respondents

R1 to R11 : Mr.R.D.Ashok Kumar
for Mr.S.N.Ravichandran
M/S.R.P.Prathap Singh for R12

JUDGMENT

(Judgment of this Court made by T.S.Sivagnanam,J.)

This appeal by the Tamil Nadu Civil Supplies Corporation Limited is directed against the order passed in W.P.No.4606 of 2016 dated 03.03.2017. The said writ petition was filed by the appellant Corporation challenging the order passed by the Inspector of Labour in Case No.4337/2014 dated 21.05.2015.

2.The respondents herein filed an application under the provisions of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as "the Act") and prayed for direction upon the appellant to confer permanent status to them on the ground that they have completed 480 days continuous employment in the appellant Corporation within a period of two years, in terms of Section 3(1) of the Act. There are totally 11 respondents who approached the Inspector of Labour by filing an application for conferring permanent status on them. Most of the private respondents have completed their 8th and 10th Standard except two by name, Udayasuriyan, who has studied only upto 2nd standard and Velmurugan who has studied upto 5th standard. We find that one T.Venkatesan is a B.Com graduate.

3.The case of the respondents is that they have been continuously working as delivery boys to deliver gas cylinders to card holders who are registered with the appellant Corporation. The Inspector of Labour framed four questions for consideration, namely, (1) whether the respondents are working in terms of the definition under the Act? (2) whether the appellant Corporation will fall within the meaning of Establishment under the Act? (3) whether they are entitled for relief under the Act and (4) if so, what is the relief they are entitled to?. The Inspector of Labour took into consideration Section 2(4) of the Act which defines workmen means any person employed in any industrial establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied and includes badli workmen.

4.The Inspector of Labour applied the definition of workmen as defined under Section 2(4) of the Act to the respondents and found that they were delivery boys who deliver gas cylinders from Arani gas godown and it is a skilled work for a hire or reward. Therefore, it was held that the respondents would fall within the definition of workmen as defined under Section 2(4) of the Act. The second question was considered by the Inspector of Labour and it was held that the appellant Corporation would

fall within the meaning of establishment as defined in Section 2 (6) of the Act because of the organization activity being carried out. Nextly, the Inspector of Labour analysed the documents which were placed before it by the workmen and found that the appellant Corporation though refused to make the respondents as permanent by communication dated 18.03.2015, by the subsequent communication dated 16.04.2015 addressed the head of the Department for regularization of the services. Therefore, the Inspector of Labour noted that on one hand, the appellant Management contended that no salary is paid to the respondent workmen and on the otherhand, they have addressed the head of the Department for regularising the services of the respondents. Further, it was noted that the other benefits which were extended to the permanent employees of the Corporation such as Deepavali bonus, Pongal advance, etc were also extended to the respondents. That apart, the names of the respondents were also printed in the bills which were raised by the appellant Corporation. Therefore, the Inspector of Labour concluded that all of them have been in continuous employment of the appellant Corporation and granted the relief to them by directing the appellant to confer permanent status as and when they completed the requisite length of service of 480 days in two calender years.

5.The appellant Corporation tested the correctness of the order passed by the Inspector of Labour by filing the writ petition. The Writ Court after taking note of the submission made on either side and after perusing the order passed by the Inspector of Labour dated 21.05.2015 held that there is no infirmity in the order. The correctness of the order passed in the writ petition is called in question before us in this appeal. Admittedly, the power under Article 226 of the Constitution of India when exercised, testing the correctness of an order passed by an Industrial Tribunal or a Labour Court is limited. The Court cannot re-appraise the evidence as if it is an appellate authority over the factual findings recorded by the Tribunal. If the order suffers from perversity or if the order is in violation of principles of natural justice or if the order is devoid of reasons, the Court would exercise its jurisdiction under Article 226 of the Constitution of India and in other words, in the instant case, the Inspector of Labour is a fact finding authority who has given reasons as to why permanent status should be conferred on the respondent employees as the reasons having not been shown to be illegal, erroneous or patently illegal and the appellant Corporation were not able to make out any case of perversity in the approach of the Inspector of Labour.

6.Thus, we find that no grounds have been made out by the appellant to interfere with the order passed in the writ

petition. Accordingly, the writ appeal fails and is dismissed.
No costs. Consequently, connected miscellaneous petition is
closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

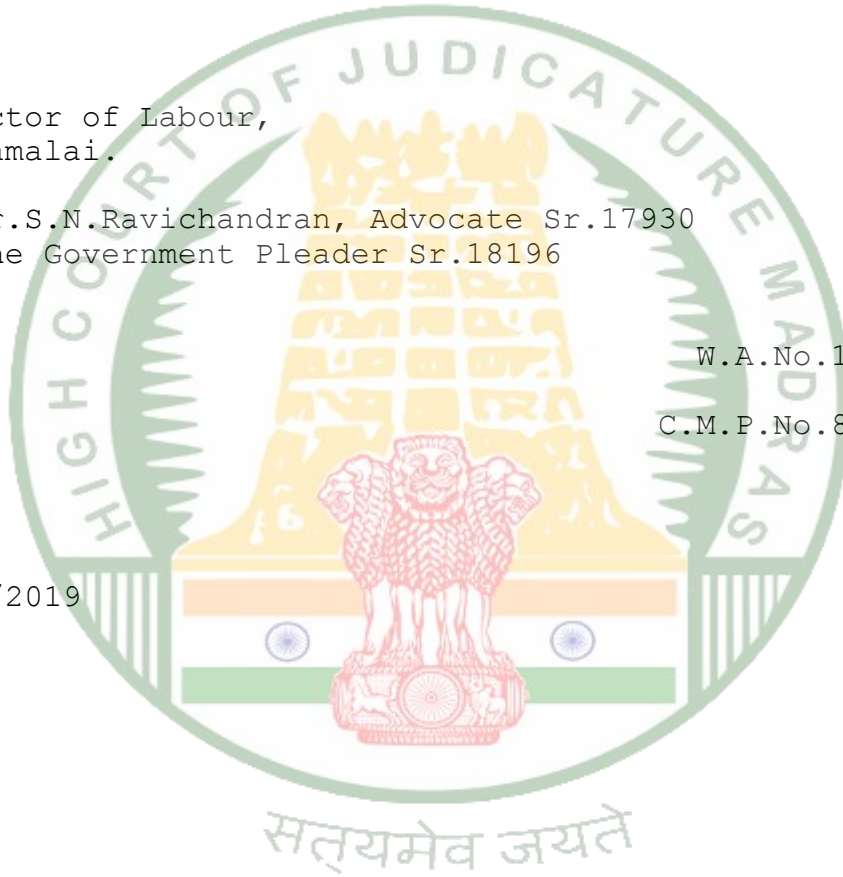
To

The Inspector of Labour,
Thiruvannamalai.

+lcc to Mr.S.N.Ravichandran, Advocate Sr.17930
+lcc to the Government Pleader Sr.18196

W.A.No.1002 of 2018
and
C.M.P.No.8508 of 2018

gj[col
srg 30/03/2019



WEB COPY