

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 25.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.3090 of 2004

and

WMP.Nos.3626 of 2004 & 35704 of 2005

and

WVMP.No.2239 of 2005 in WMP.No.3626 of 2004

The Registrar,
Gandhigram Rural Institute -
Deemed University,
Gandhigram - 624302,
Dindigul District.Petitioner

Vs

1. The Inspector of Labour,
Nehruji Nagar, 3rd Street,
Dindigul - 624001.

2. M.ManimegalaiRespondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari calling for the records of the first respondent in his proceedings No.1898 of 2003 dated 31.12.2003 and quash the same.

For Petitioner : Mr.Ma.Pa.Thangavelu

For Respondents: Mr.S.Suresh Kumar, GA
for R1

Mr.K.M.Ramesh
for R2

O R D E R

The Award under challenge in the present writ petition is for confirmation of the permanent status of the second respondent herein with effect from 02.05.2001, on the ground that she had completed 480 days of continuous employment during the preceding two calendar years.

2. The first respondent herein had come to the conclusion that the second respondent herein had completed 480 days of continuous employment during the preceding two calendar years based on the evidences available before him and also on the statements of the management employee, who has stated that the second respondent's service from confirmation has been favourably recommended in view of her continuous employment.

3. The learned counsel for the petitioner has now raised two grounds before this Court challenging the Award stating that the petitioner Institute is not an industrial establishment as defined under Industrial Disputes Act and since the second respondent was a part-time employee, who was appointed to serve on the exigencies of the petitioner-administration, she is not entitled for regularisation.

4. The learned counsel appearing for the second respondent herein had relied upon the decision of the Constitutional Bench of the Hon'ble Apex Court reported in 1978 (2) SCC 213 in the case of Bangalore Water Supply & Sewage Board vs A.Rajappa and submitted that the University is an 'Industry' as defined under the Industrial Disputes Act. The learned counsel also relied upon the decision of this Court reported in 2004 (2) LW 30 in the case of Madurai Kamarajar University vs The Registrar and another, wherein Madurai Kamarajar University was held to be an 'Industry' as defined under the Industrial Disputes Act. In view of these decisions, the petitioner-University is deemed to be an 'Industry' as defined under the Industrial Disputes Act, 1947 and accordingly, the first ground raised by the petitioner is negatived.

5. Insofar as the second ground raised by the petitioner that the second respondent was appointed only on exigencies on part-time basis, the learned counsel for the petitioner relied upon the decision of Hon'ble Apex Court reported in 2017 (4) SCC 113 in the case of State of Tamil Nadu through Secretary to Government, Commercial Taxes and Registration Department, Secretariat and another vs A.Singamuthu. In the said decision, G.O.Ms.No.22 dated 28.02.2006 of the Tamil Nadu Government was a subject matter, wherein it was held that only the full-time daily-wage employees were directed to be regularised on completion of 10 years of continuous service and that would not apply to part-time employees.

6. In the present case, the second respondent herein was engaged as a full-time daily-wage employee and as such, the decision would not only apply to the second respondent, but would also be in her favour.

7. For all the foregoing reasons, I do not find any infirmity in the order of the first respondent dated 31.12.2003. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

hvk

To

The Inspector of Labour,
Nehruji Nagar, 3rd Street,
Dindigul - 624001.

+1cc to Mr.K.M.Ramesh, Advocate Sr.39827

+1cc to Mr.Ma.P.Thangavel, Advocate Sr.40459

+1cc to the Government Pleader Sr.40638

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srg 28/06/2019

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