

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09-09-2019

Coram

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3604 of 2010

V.Sambandam

... Petitioner

vs.

1.Presiding Officer,
Labour Court,
Cuddalore.

2.Management,
Tamil Nadu State Express Transport Corporation,
Tamil Nadu Division-I,
Pallavan Salai,
Chennai-600 002.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, after calling for the concerned records from the first respondent, quash the award passed by the first respondent dated 10.04.2007 in ID No.103 of 1998 and consequently direct the second respondent to reinstate the petitioner in service with full back wages, continuity of service and all other attendant benefits and award costs.

For Petitioner : Mr.T.R.Sivakumar Nath

For Respondent-1 : Labour Court

For Respondent-2 : M/s.Rajeni Ramadass.

O R D E R

The Award passed by the first respondent dated 10.04.2007 in I.D.No.103 of 1998 is under challenge in the present writ petition.

2. The writ petitioner states that he joined services of the second respondent-Tamil Nadu State Express Transport Corporation as Maistry in the Construction Division and was working continuously till 09.12.1974. Again the writ petitioner was employed by the second respondent on 23.03.1994 and was continuing in service till 31.03.1996. His last drawn wage was Rs.300/- per month.

3. The writ petitioner further states that he was working in the Construction Division of the State Express Transport Corporation at Cuddalore. However, his services were discontinued with effect from 10.12.1974. The writ petitioner was working at Thyagadurgam Bus Stand. The writ petitioner states that there he used to work for 12 hours per day and was paid Rs.300/- per month. Under those circumstances, the writ petitioner set out a claim for regularisation of his services in a sanctioned post, but he was terminated from service on 05.04.1996. Thus the writ petitioner raised an industrial dispute in ID No.103 of 1998. An Award was passed on 10.04.2007, dismissing the industrial dispute as untenable, against which the present writ petition is filed by the writ petitioner.

4. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was engaged by the Officer, who was in-charge of the Bus Stand and he was continuously working for a monthly salary of Rs.300/- and therefore, for all purposes he should be treated as an employee of the Transport Corporation. The claim of the writ petitioner was not considered by the Labour Court with reference to the documents submitted by the writ petitioner. The writ petitioner has submitted the log book, bus time table and other conduct certificate and the letter of the Transport Corporation.

5. The learned counsel appearing on behalf of the respondent-Transport Corporation disputed the contentions by stating that the writ petitioner-workman was not at all appointed by the Transport Corporation. The Competent Authority had not engaged the writ petitioner at any point of time. Contrarily, the writ petitioner claims that he was engaged by the Time Keeper, who was in-charge of the Bus Stand. Thus, the engagement cannot be construed as a valid appointment as far as the Transport Corporation is concerned and the Corporation cannot be held liable in respect of all such engagements made by other employees in order to assist them in the Bus Stand in an illegal manner. Such engagements made by the Time Keeper in the bus stand was an illegal one and the Corporation cannot take any

responsibility in respect of such engagements made by the officials of the Corporation without any authority or without the approval of the competent authority.

6. The Labour Court also categorically found that the writ petitioner has not established that he was properly appointed by the Transport Corporation. There is no proof establishing that the writ petitioner was engaged by the competent authority of the Transport Corporation. Contrarily, the Labour Court found that the writ petitioner was engaged by an incompetent authority on temporary basis and therefore, the continuous service rendered by the writ petitioner is of no avail for the purpose of granting regularisation or permanent absorption.

7. This apart, the termination was also made by such an incompetent authority and all those engagements and disengagements were in violation of the Transport Corporation Rules and more specifically, by an incompetent authority without the approval of the competent authority of the Transport Corporation.

8. This being the factum established before the Labour Court, the Labour Court had rejected the industrial dispute raised by the writ petitioner. The entire perusal of the findings of the Labour Court reveals that the writ petitioner had not established that he was appointed by the competent authority or engaged with the approval of the competent authority. In the absence of proving any such factum, the writ petitioner is not entitled for the relief as such sought for in the present writ petition.

9. Thus, this Court do not find any infirmity or perversity in respect of the findings made in the Award of the Labour Court and accordingly, the Award passed by the Labour Court on 10.04.2007 in ID No.103 of 1998 is confirmed and consequently, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Presiding Officer,
Labour Court,
Cuddalore.

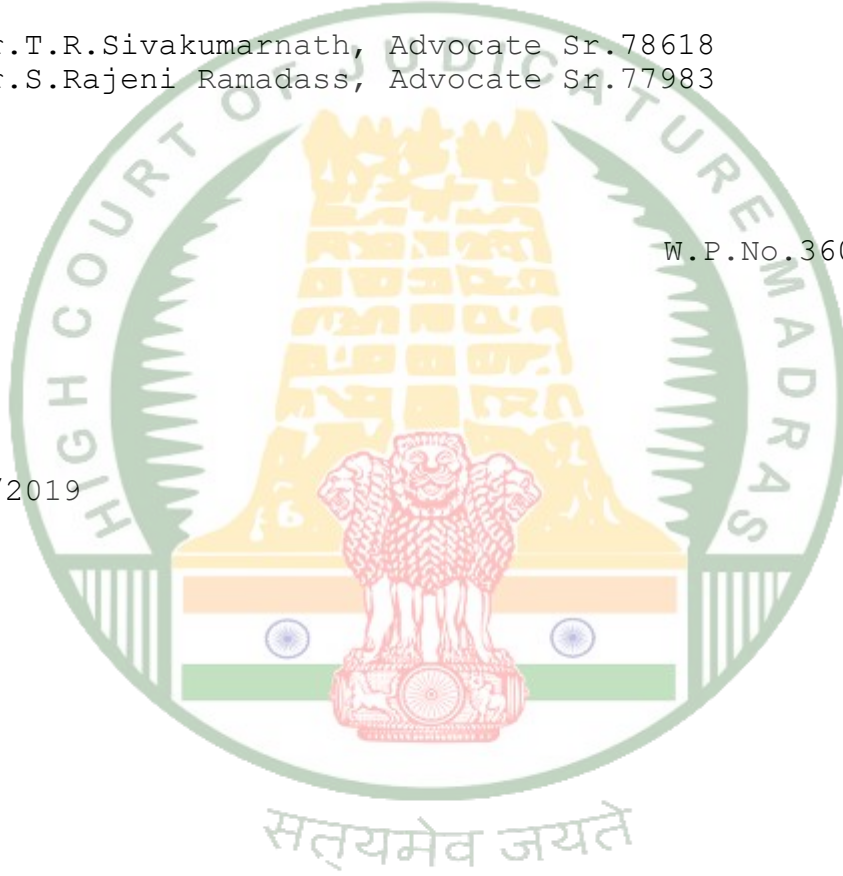
2.The Management,
Tamil Nadu State Express Transport Corporation,
Tamil Nadu Division-I,
Pallavan Salai,
Chennai-600 002.

+1cc to Mr.T.R.Sivakumarnath, Advocate Sr.78618

+1cc to Mr.S.Rajeni Ramadass, Advocate Sr.77983

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srg 04/10/2019



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