

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.09.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.7111 and 7112 of 2014

V.Prabhu

..Petitioner in
W.P.No.7111 of 2014

P.Rajamanikandan

..Petitioner in
W.P.No.7112 of 2014

vs

1. The Inspector of Labour/
Authority under the Tamilnadu
Industrial Establishment (Conferment
of Permanent Status to Workmen) Act,
Circle-II, Tamilnadu Housing Board Shopping
Complex, Venkata Narayana Road,
Chennai - 600 035.

2. The Management
State Express Transport Corporation,
No.2, Pallavan Salai, Valluvar Illam,
Chennai - 600 002.

..Respondents in both W.Ps

Prayer in W.P.No.7111 of 2014:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 31.01.2014 in Proceedings No.E/3287/2012 passed by the 1st Respondent, quash the same and consequently direct the 2nd Respondent to confer the Petitioner permanent status with effect from 01.04.2000, that is, from the date of completion of 480 days in 24 calendar months, with arrears and all other consequential benefits.

Prayer in W.P.No.7112 of 2014:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 31.01.2014 in Proceedings No.E/3288/2012 passed by the 1st Respondent, quash the same and consequently direct the 2nd Respondent to confer the Petitioner permanent status with effect from 01.04.2000, that is, from the date of completion of 480 days in 24 calendar months, with arrears and all other consequential benefits.

For Petitioners : Mr.V.Ajoy Khose(in both W.Ps)

For Respondents : Mr.M.Elumalai
Government Advocate for R1
(in both W.Ps)

M/s.Rajeni Ramadoss
for R2(in both W.Ps)

C O M M O N O R D E R

The order dated 31.01.2014 passed by the 1st respondent is sought to be quashed in the present writ petitions and a consequential direction is sought for to direct the 2nd respondent to confer the petitioners permanent status with effect from 01.04.2000, that is, from the date of completion of 480 days in 24 calendar months, with arrears and all other consequential benefits.

2. Adjudication of the merits in detail may not be required in this case in view of the fact that the Hon'ble Division Bench considered the similar facts in respect of the similarly placed employees in Writ Appeal Nos.2642 to 2655 of 2012 dated 02.02.2018. The Hon'ble Division Bench of this Court passed an order as under:

"9. We have given our anxious consideration to the submissions made by the learned counsel on either side and perused the materials available on record carefully and meticulously, with regard to the operation of Section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, and also Section 12(3) Settlement arrived at between the Management and the Unions.

10. As projected by the Management, between the years 1999 to 2005 there was a ban on recruitments by the Government, during which period the private respondents alleged to have been working for 480 days within a period of 24 calendar months. However, permanent status cannot be conferred during the currency of the said ban period from the year 1999 to 2005. It is not disputed by the learned counsel for the workmen that the alleged dates of conferment of permanent status on these workmen, falls during the ban period. When such being the case, we find no hesitation to come to the conclusion that permanent status cannot

be conferred on the workmen, on the dates falling within the ban period.

11. In view of the above stated circumstances, we hereby allow these appeals, setting aside the impugned orders passed by the learned single Judges. Thus, the orders passed by the first respondent herein, which were impugned in the writ petitions under challenge in these appeals, dated 30.07.2009 are restored. No costs. Consequently, the connected miscellaneous petitions are closed."

3. The learned counsel appearing on behalf of the writ petitioners state that a Review Application is filed against the said order cited supra. The Review Application is admitted and pending for adjudication before this Court in Review Application No.205 to 210 of 2018.

4. However, this Court is of the considered opinion that keeping these writ petitions pending for an unspecified period may not be required in view of the fact that the Hon'ble Division Bench has already seized of the matter. Thus, the writ petitioners are at liberty to reapproach the competent authorities based on the order passed in the review application. In the event of filing any application by the writ petitioners after the disposal of the review application, the same shall be entertained and accordingly, the competent authorities are empowered to decide the matters on merits and in accordance with law.

5. With these observations, both the writ petitions stand disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(J)

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Sub Assistant Registrar

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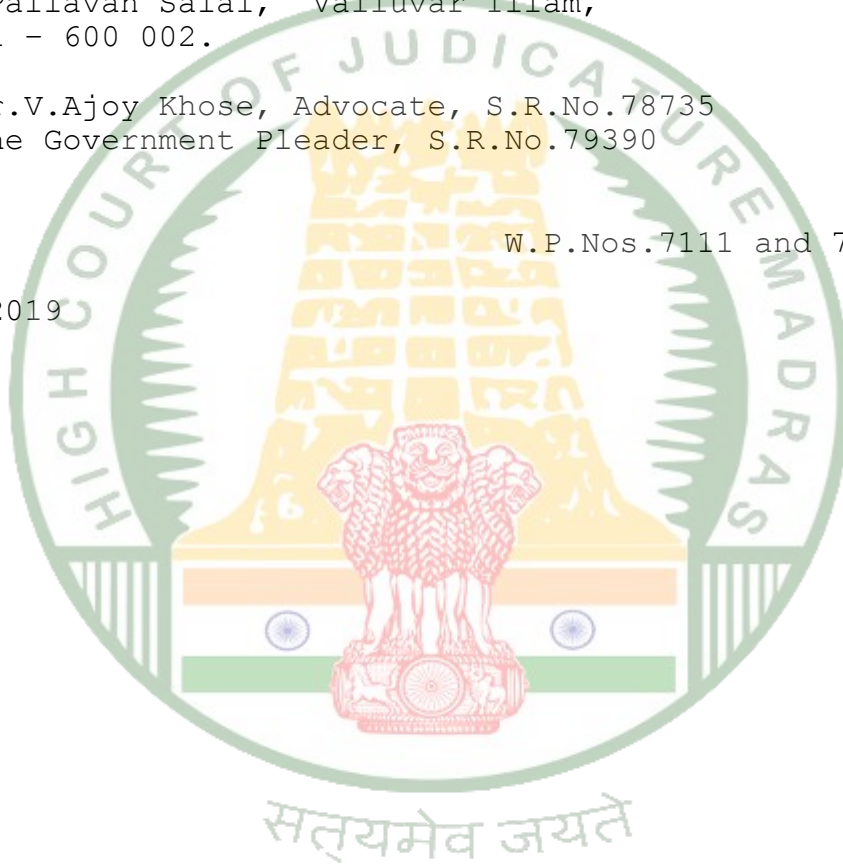
To

1. The Inspector of Labour/
Authority under the Tamilnadu
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of Permanent Status to Workmen) Act,
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+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.78735
+1cc to the Government Pleader, S.R.No.79390

W.P.Nos.7111 and 7112 of 2014

CS/09/10/2019



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