

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.8501 to 8503 of 2017

M.Murugesan ...Petitioner in W.P.No.8501 of 2017
S.Rajendran ...Petitioner in W.P.No.8502 of 2017
C.Nagarajan ...Petitioner in W.P.No.8503 of 2017

vs.

1. Tamil Nadu State Transport Corporation
Rep.by its Managing Director,
Vellore Divisional Limited
Vellore.
2. Tamil Nadu State Transport
Corporation Ltd., Vellore Region,
Rep.by its General Manager,
Rangapuram, Vellore-632 009.
3. Tamil Nadu Industrial Department
Rep.by its Authorized Officer cum Inspector Labour,
Vellore-632 009. ... Respondents in all W.Ps

PRAYER IN W.P.No.8501 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in proceedings Na.Ka.No.E/2413/2014, dated 12.08.2016, on the file of 3rd respondent and quash the same as illegal competent and wholly without jurisdiction and further direct the respondents to regularize the service of the petitioner from 22.10.2002.

PRAYER IN W.P.No.8502 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in proceedings Na.Ka.No.E/2413/2014, dated 12.08.2016, on the file of 3rd respondent and quash the same as illegal competent

and wholly without jurisdiction and further direct the respondents to regularize the service of the petitioner from 06.03.2001.

PRAYER IN W.P.No.8503 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in proceedings Na.Ka.No.E/2413/2014, dated 12.08.2016, on the file of 3rd respondent and quash the same as illegal competent and wholly without jurisdiction and further direct the respondents to regularize the service of the petitioner from 13.09.2001.

For Petitioner : Mr.V.Raghavachari
in all W.Ps

For Respondents : Mr.A.Antony Arockia Raja
in all W.Ps for RR1 & 2

Mr.J.Ramesh,
Additional Government Pleader
for R3.

C O M M O N O R D E R

The common order dated 12.08.2016 passed by the competent authority under the conferment of Permanent Status Act is under challenge in the present writ petitions.

2. The petitioner states that he joined as a Driver in the State Transport Corporation at Vellore on 29.06.2001. He was initially appointed on daily wages and subsequently, the same was increased from time to time. The petitioner claims that on completion of 480 days service, he is entitled for automatic regularization of service. However, there was a delay on the part of the Transport Corporation in regularizing the services of the writ petitioner. The petitioner states that he was under an impression that his services were regularized with effect from 22.10.2002. However, he received a letter stating that his services were regularized with effect from the year 2005. The letter was received by the petitioner on 27.09.2005. On account of the fact that the writ petitioner is entitled for regularization with effect from the year 2002 and as per the letter received by the writ petitioner on 27.09.2005, his services were regularized with effect from the year 2005. The petitioner was constrained to approach the Inspector of Labour for grant of permanent status, on completion of 480 days of service in the writ petitioner Corporation. But the said petition was rejected.

Thus, the present writ petition is filed.

3. The learned counsel appearing for the writ petitioner states that as per the provisions of conferment of permanent status, the petitioner is entitled for regularization, on completion of 480 days of service. Thus, the regularization ought to have been granted with effect from 22.10.2002 and not from the year 2005. It is further contended that on account of delay on the part of the Transport Corporation, the benefit of regularization cannot be denied to the writ petitioner, on completion of 480 days of service.

4. The learned counsel appearing on behalf of the Transport Corporation disputed the contention by stating that the benefit of regularization was granted to all the employees who have completed 480 days of service through 12(3) settlement. In respect of grant of regularization and permanent absorption, the 12(3) settlement was signed between the Management and the Trade Union, as per the terms and conditions of the settlement. The benefit of regularization was granted with effect from the year 2005 uniformly to all the employees who had served during the relevant point of time. Even from a perusal of the order impugned dated 12.08.2016, it is seen that the benefit of regularization was granted with effect from the year 2005 in more cases and in some cases, where the employees have joined long back, the benefit was given in the year 2001 and 2002. As far as the writ petitioner is concerned, the regularization was granted with effect from 01.09.2005. The petition under Conferment of Permanent Status Act was filed by the writ petitioner in the year 2014, after a lapse of about 9 years from the date of regularization. The Inspector of Labour/Competent Authority made a finding that the writ petitioner has filed the petition, after a lapse of many years and further the benefit of regularization itself was granted, based on the 12(3) settlement signed between the parties. When the Registered Union agreed for such a settlement, based on the settlement, the benefit of regularization was granted. Now the employee cannot go back in violation of the settlement and claim retrospective regularization or otherwise. This apart, the petitioner approached the competent authority after a lapse of more than 9 years. Under these circumstances, the authority competent has rightly rejected the claim of the writ petitioner and there is no infirmity as such. Thus, the claim of the writ petitioner cannot be entertained, as he approached the competent authority after a lapse of more than 9 years and further, the benefit of regularization was already granted to the writ petitioner, based on the 12(3) settlement and the 12(3) settlement is binding on the workman. Under these circumstances, the writ petitioner is not entitled for any retrospective regularization, as the benefit was granted long

back as per the settlement.

5. Accordingly, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ssb
To

- 1.The Managing Director,
Tamil Nadu State Transport Corporation
Vellore Divisional Limited
Vellore.
- 2.The General Manager,
Tamil Nadu State Transport
Corporation Ltd., Vellore Region,
Rangapuram, Vellore-632 009.
- 3.The Authorized Officer cum Inspector Labour,
Tamil Nadu Industrial Department
Vellore-632 009.

+1cc to Mr.V.Raghavachari, Advocate SR.90819
+1cc to the Government Pleader SR.90687

W.P.Nos.8501 to 8503 of 2017

PVS (CO)
CB(06/12/2019)

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