



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.10489 of 2010

WEB COPY

P.Karthikeyan

... Petitioner

vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Limited,
Kumbakonam.

2.The General Manager,
Tamil Nadu State Transport Corporation
Kumbakonam Division II Limited,
Thiruchirappalli.

3.The Presiding Officer, Labour Court,
Thiruchirappalli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the third respondent impugned Award passed in I.D.No.201 of 2003 on 30.09.2009 and quash the same and further to direct the first respondent to reinstate the petitioner in service in the post of Driver.

For Petitioner	:Mr.T.Murugan
For R1 and R2	:Mr.M.Prakash
R3	:Labour Court

O R D E R

This Writ petition is filed for issuing a Writ of Certiorarified Mandamus to quash the Award of Industrial Tribunal in I.D.No.201 of 2003, dated 30.09.2009 and to direct the first respondent to reinstate the petitioner in service in the post of Driver.

2.The petitioner states that he joined as a Driver in the second respondent Corporation, which was formerly known as "Dheeran Chinnamalai Transport Corporation", on 09.11.1992. It is the case of the petitioner that he was continuously working as a Driver for a period of 5 years 7 months. Stating that the Corporation dismissed the petitioner by an oral order on 28.06.1998, without any rhyme or reason and that he worked for more than 240 days in a year without any break, raised an industrial dispute after the Conciliation Officer passed a failure



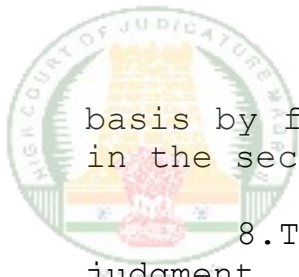
3. Before the Labour Court, the second respondent Management specifically contended that the petitioner was engaged temporarily by the Branch Manager and that no Appointment Order was issued nor the petitioner was recruited through Employment Exchange, as followed, while appointing permanent staff in the second respondent Corporation. The Labour Court accepted the case of Management, as there was no independent evidence to prove that the petitioner was either appointed on permanent basis or that he was worked continuously for a period of 240 days in a year without any break.

4. The Labour Court, after considering the evidence, came to the conclusion that the petitioner is a casual labour engaged on daily basis and that the petitioner has not proved his contention that he worked continuously for a period of 240 days in a year. The Labour Court dismissed the petition in I.D.No.201 of 2003, by order dated 30.09.2009. Aggrieved by the order of Labour Court, the present writ petition is filed.

5. The fact that the petitioner was appointed on *ad hoc* basis is admitted by the petitioner. The petitioner's contention that he was terminated from service without following the regulations was carefully considered by the Labour Court. Since the petitioner is only a casual labour and also admitted that he was engaged continuously for a period of 40 days on daily wage basis as a Driver, the Labour Court relying upon several precedents and held that the petitioner, who has not proved his case that he had worked continuously for a period of 240 days in a year, is not entitled to raise a dispute by saying that he was terminated without following the principles of natural justice.

6. The distinction between the permanent employee and temporary employee, as held in several precedents, was carefully considered by the Labour Court and that the petitioner, who was not even appointed on regular basis, has failed to prove his case that he was continuously working for a period of 240 days in a year.

7. The learned Counsel for the petitioner submitted that the Labour Court failed to consider the fact that the records in relation to the service of the petitioner are available with the Management and that the Management has not filed those documents. The learned Counsel for the petitioner further submitted that the petitioner was appointed, after the Advertisement in a daily newspapers and that the Branch Manager, after receiving application from the eligible candidates, appointed the petitioner. In this regard, the petitioner has not produced any records to show that the petitioner's appointment was on regular



basis by following a process of recruitment to the post of Driver in the second respondent Corporation.

8.The learned Counsel for the petitioner relied upon the judgment of Honourable Supreme Court in the case of **Nagar Mahapalika (Now Municipal Corporation) vs State of Uttar Pradesh and others**, reported in **2006-II-LLJ-220**, wherein, it has been held that the persons, who are appointed on *ad hoc* basis working for more than 240 days for a period of one year, cannot be terminated from service without following the procedure. In the case on hand, the facts are not similar and the petitioner has failed to prove his case that he was continuously engaged for more than 240 days in a year. Hence, the judgment has no application to the facts of this case.

9.The petitioner has ample opportunity to get the records through process known to Law. No such attempt was made by the petitioner, when the matter was pending before the Labour Court. In such circumstances, the point that is raised now before this Court cannot be countenanced. The Labour Court has elaborately considered the pleadings and evidence in the light of settled principles of law. The Labour Court relied upon the petitioner's admission that he worked for about 40 days and there is no continuity. He appears to be a daily wager for some time. This Court is unable to find any error or illegality in the order of Labour Court dismissing the petition filed by the petitioner.

10.In view of the discussion made above, the writ petition is dismissed and the order passed by the Labour Court, in I.D.No.201 of 2003, dated 30.09.2009 is confirmed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To
The Presiding Officer,
Labour Court, Thiruchirappalli.

+1 CC to M/s.M. PRAKASH, Advocate (SR-91844[F] dated 15/10/2019)
W.P. (MD)No.10489 of 2010

15.10.2019

KM/ (04.11.2019) 3P 3C