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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A. (MD) No.212 of 2019

and

C.M.P. (MD) No.1798 of 2019

The Management
Tamilnadu State Transport Corporation
(Madurai) Limited
Bye Pass Road
Madurai

... Appellant / Petitioner

-vs-

1. The Labour Inspector
TNHB Complex
Ellis Nagar
Madurai-625 016

2.P.Muthu ... Respondents / Respondents

Prayer in WA(MD)No.212 of 2019: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 10.12.2014 made in W.P. (MD) No.9739 of 2014, on the file of this Court.

Prayer in WP(MD)No.9739 of 2014: Writ Petition is filed under Article 226 of the Constitution of India, to issue a WRIT OF CERTIORARI calling for the records of the 1st respondent in his proceeding in Na.Ka.No.Aa/3517/12 dated 21.08.2013, quash the same.

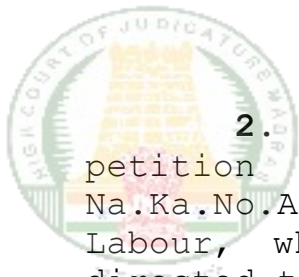
For Appellant : Mr.A.Jeyaram

For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader for R1
Mr.J.Jeyakumaran for R2

J U D G M E N T

[Judgment of the Court was made by B.PUGALENDHI, J.]

This writ appeal is filed as against the order, dated 10.12.2014, passed by the Writ Court in W.P.(MD) No.9739 of 2014, with a delay of 844 days, which has been condoned by this Court vide order dated 04.02.2019.



2. The appellant - Transport Corporation filed the writ petition challenging the order, dated 21.08.2013, in Na.Ka.No.Aa/3517/12, passed by the first respondent - Inspector of Labour, whereby and whereunder, the Transport Corporation was directed to regularize the second respondent - employee's service.

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3. According to the second respondent - employee, he was appointed as a driver in the appellant - Transport Corporation and he has continuously worked for a period of 480 days of qualifying service within 24 calendar months and therefore, he is entitled for regularization of service as per the settlement under Section 12(3) of the Industrial Disputes Act, 1947.

4. The appellant - Transport Corporation agitated the claim of the second respondent - employee before the first respondent - Inspector of Labour on the ground that the second respondent - employee is not having the satisfactory service and disciplinary proceedings are pending against him.

5. After hearing both sides, the first respondent - Labour Inspector passed an order, dated 21.08.2013, directing the appellant - Transport Corporation to regularize the second respondent's service in the post of driver with effect from 02.09.2012. Challenging said order, the writ petition came to be filed by the appellant - Transport Corporation and the writ petition was dismissed by the Writ Court, by order dated 10.12.2014, on the ground that the charges levelled against the second respondent - employee are not serious in nature and he has put in 480 days of continuous service. Aggrieved by the said order, the present writ appeal has been filed by the appellant - Transport Corporation.

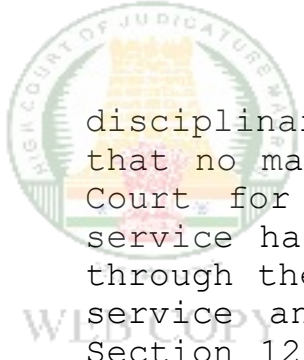
6. Perusal of the records would go to show that the second respondent - employee was appointed as a driver in the leave vacancy, through the Employment Exchange with effect 04.08.2010. As per the memorandum of settlement entered under Section 12 (3) of the Industrial Disputes Act, 1947, the service of an employee, who has put in 240 days of service, has to be regularized. The relevant clause of the memorandum of settlement is extracted hereunder for better appreciation:

"12. Confirmation of temporary employees

(a) Drivers and conductors :

The service of drivers and conductors will be confirmed after satisfactory completion of 240 days of actual work in a continuous period of 1 year."

7. The case of the appellant - Transport Corporation is that the service rendered by the second respondent - employee is not upto the level of satisfactory and he is indulged in



disciplinary proceedings cannot be accepted for the simple reason that no material to that effect has been produced before the Writ Court for consideration. Furthermore, the second respondent's service has been availed by the appellant - Transport Corporation through the Employment Exchange and he has also put in 480 days of service and as per the memorandum of settlement entered under Section 12(3) of the Industrial Disputes Act, 1947, the employee, who has put in 240 days of service, is entitled for regularization of service. For the reasons aforesaid, we do not find any error or irregularity in the order passed by the Writ Court and the same does not warrant any interference by this Court.

8. In the result, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

krk

To
The Labour Inspector,
TNHB Complex,
Ellis Nagar, Madurai-625 016.

+ 1 CC TO Mr.J.Jeyakumaran, ADVOCATE IN SR No.49446

W.A. (MD) No.212 of 2019
and
C.M.P. (MD) No.1798 of 2019

22.02.2019

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