

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 16.07.2019****CORAM:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.19878 of 2014**

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S.Simpson

... Petitioner

-Vs-

1. The Managing Director,
State Express Transport Corporation Limited,
Pallavan Salai, Chennai-600 002.

2. The Branch Manager,
State Express Transport Corporation Limited,
Kanyakumari Branch, Kanyakumari.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in LR.No.001934/L10/SM/SETC/2014 dated 07.10.2014 of the first respondent and to quash the same and consequently, directing the respondents to regularise the petitioner's service with effect from the year April, 1994 with all service benefits, seniority and arrears of back wages, all other consequential attendant benefits as per law on regularized scale from the date on which the writ petitioner completed probation period of services.

For Petitioner : Mr.K.Guhan

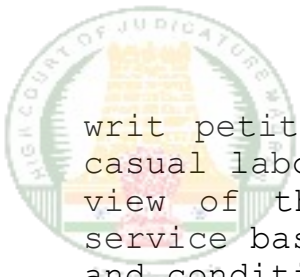
For Respondents : Mr.K.Sathiya Singh

ORDER

The order of rejection, rejecting the claim of the writ petitioner for retrospective regularisation of his service as Driver in proceeding dated 07.10.2014, is under challenge in the present Writ Petition.

2.The writ petitioner was engaged as temporary Driver on daily wage basis during the year 1994. The writ petitioner was working as driver on daily wage basis in the Transport Corporation for a considerable length of time and considering his temporary services, the respondents granted benefit of regularisation to the writ petitioner with effect from the year 2002. The writ petitioner was appointed as regular employee with effect from 2002 and he retired from service on attaining the age of superannuation in the year 2015.

3.The learned counsel appearing on behalf of the respondents made a submission that the writ petitioner was engaged as temporary Driver during the strike period on daily wage basis. However, the



writ petitioner was continuously working as daily wage employee / casual labourer. Casual labour period now cannot be regularised, in view of the fact that the writ petitioner was continued in the service based on the terms and conditions and by accepting the terms and conditions.

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4.The writ petitioner while joining in the post of Driver on casual basis, accepted the terms and conditions and served till the year 2002. His case was considered for grant regularisation and accordingly, he was brought under regular establishment during the year 2002. The benefit of regularisation granted to the writ petitioner by way of concession. Initial appointment of the writ petitioner was not in accordance with the recruitment rules in force. Initial appointment of the writ petitioner was irregular and therefore, granting of regularisation and permanent absorption itself was a concession extended to the writ petitioner.

5.This being the factum, the writ petitioner cannot claim retrospective regularisation from the date on which he was employed as casual labourer, which is impermissible, in view of the fact that initial appointment was irregular and not in accordance with the recruitment rules in force.

6.Such retrospective regularisation is impermissible, in view of the fact that the case of the writ petitioner was considered for regular absorption in the year 2002 by way of concession. This Court is of the considered opinion that retrospective regularisation cannot be granted, in view of the fact that the writ petitioner agreed the terms and conditions of the employment as casual labour and served till the year 2002. Under these circumstances, further benefit or concession by granting retrospective regularisation cannot be granted. Accordingly, this Writ Petition is devoid of merits and the same stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

+1 CC to Mr.K.SATHIYA SINGH, Advocate (SR-75580[F] dated 16/07/2019)

+1 CC to Mr.K.GUHAN, Advocate (SR-75843[F] dated 17/07/2019)

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