

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.36803 of 2003
and W.P.M.P. No. 44679/2003.

The Executive Officer,
Udankudi Selection Grade,
Town Panchayat,
Udanjudi, Thoothukudi District. ... Petitioner

Vs.

1.The Inspector of Labour,
Thoothukudi.

2.M.Rajagopal ... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a writ of certiorari, calling for records of the 1st respondent in his order passed in Na.Ka.No.E5614/2003 dated 11.11.2003 and quash the same.

For Petitioner : Mr.P.S.Jayakumar

For Respondent

R1 : Mr.M.Venkadesh Kumar
Government Advocate

R2 : Mr.P.Rajendran

सत्यमेव जयते
O R D E R

Challenging the order of authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 dated 11.11.2003, the petitioner / Town Panchayat is before this Court.

2. According to the petitioner, the 2nd respondent was appointed as a temporary worker as Over Head Water Tank Watchman on daily wages basis and they are entitled to terminate him without assigning any reason. As per the G.O.Ms.No.198 Municipal Administration and Water Supply Department dated 26.10.1998, the petitioner can regularize the 2nd respondent for temporary employment. Without considering the Government order, the

authority had declared that the 2nd respondent has completed 480 days of work continuously within two years and that he is entitled to conferment of permanent status, the order is bad in law.

3. Per contra, the learned counsel appearing for the 2nd respondent would contend that the 2nd respondent has completed more than 480 days and he has been working for 4 years under the petitioner without interruption. Further, the Government in G.O.Ms.No.71 dated 05.05.1998 has declared and directed to regularize all the sanitary workers from the date of initial appointment. Even without the order of the authority under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, the 2nd respondent is entitled to regularization. Furthermore, he would rely on the judgment of this Court in W.P.No.36049 of 2003 dated 16.08.2017, wherein this Court following the judgment of the Full Bench in the Review Application (MD).No.87 of 2014 in Writ Appeal No.729 of 2013 batch etc., dated 30.05.2017, directed the Town Panchayat to extend the benefit to the similarly placed persons also.

4. In the instant case, the 2nd respondent is one among the person employed under the petitioner and is entitled to be regularized.

5. In view of the order passed by the authority under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 as well as G.O.Ms.No.71 dated 05.05.1998 and the order of this Court mentioned above, the same benefit should be extended to the petitioner also. Therefore, the petitioners' challenge to the order of the authority dated 11.11.2003 will not survive. Hence, the writ petition is dismissed.

In the light of the above discussion it is observed that the 2nd respondent is entitled to be regularized in the light of the orders passed by the Hon'ble Full Bench of this Court in R.A. (MD).No.87 of 2014 in Writ Appeal No.729 of 2013 & batch dated 30.05.2017 from the date of initial appointment within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected MP is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Inspector of Labour,
Thoothukudi.

+1 CC to Mr.P.Rajendran, Advocate sr 21234
+1 CC to Govt. Pleader sr 21675

W.P.No.36803 of 2003

RLD (CO)
SP (17/07/2020)



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