

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.Nos.7682 to 7686 of 2017

C.N. Sadasivam	..Petitioner in WP 7682/2017
S.Mahendran	..Petitioner in WP 7683/2017
R.Venkadesan	..Petitioner in WP 7684/2017
D.Ezhilarasan	..Petitioner in WP 7685/2017
R.Chinnaraju	..Petitioner in WP 7686/2017

Vs

1. Tamil Nadu State Transport Corporation,
Represented by its Managing Director,
Vellore Divisional Limited, Vellore.
 2. Tamil Nadu State Transport Corporation Limited,
Vellore Region,
Represented by its General Manager,
Rangapuram, Vellore - 632 009.
 3. Tamil Nadu Industrial Department,
Represented by its Authorized Officer,
Vellore - 632 009.
- Respondents
(in all WPs)

Common Prayer in all WPs:- Writ Petitions are 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 the third respondent and quash the same as illegal competent and wholly without jurisdiction and further direct the respondents to regularize the service of the petitioners from 24.10.2002 in W.P.No.7682/2017; 02.02.1999 in W.P.No.7683/2017; 31.07.2001 in W.P.No.7684/2017; 03.08.1999 in W.P.No.7685/2017 and 10.11.2002 in W.P.No.7686/2017 respectively.

For Petitioner : Mr.Purushothaman
for Mr.V.Raghavachari
[in all the Writ Petitions]

For RR 1 to 3 : Mr.Antony Arokia Raj
[in all the Writ Petitions]

COMMON ORDER

Since the issues involved in all these writ petitions are one and the same, they are disposed of by this common order.

These writ petitions have been filed by the petitioners seeking to call for the records in proceedings Na.Ka.No.E/2413/2014, dated 12.08.2016, on the file of the third respondent, quash the same as illegal, incompetent, and wholly without jurisdiction and direct the respondents to regularize the service of the petitioners from 24.10.2002 in W.P.No.7682/2017; 02.02.1999 in W.P.No.7683/2017; 31.07.2001 in W.P.No.7684/2017; 03.08.1999 in W.P.No.7685/2017 and 10.11.2002 in W.P.No.7686/2017 respectively.

For better appreciation, facts involved in W.P.No.7682 of 2017 are stated below:-

2. According to the petitioner, he joined as Driver in the State Transport Corporation in Vellore on 01.07.2001. Initially, he was paid Rs.98/- as daily wages and it was subsequently increased from time to time. After completion of 480 days, his service has to be automatically regularized from 24.10.2002. The petitioner was under an impression that all these are internal procedures of the Department and will be normally done automatically by the Department. On 03.09.2005, he received a letter from the respondents that as per wage settlement his service was regularized only 01.09.2005. Therefore, he has lost nearly three years of service due to the respondents adopting an incongruous procedure. Thereafter, the petitioners have approached the respondents requesting them to regularize the service from 24.10.2002. Since such a claim of the petitioner has not been considered, he was constrained to move the third respondent seeking to direct the respondents to regularize his service from 24.10.2002. Strangely, they took a view that since there was a settlement on 31.08.2005 between the trade union and management, the services cannot be regularized and the same was approved in the Board of Meeting, with effect from 01.09.2005 and all employees will be employed in the same manner and 'no objection' was raised by the Union at that point of time. The petitioner has relied upon Section 3 of conferment of Permanent Status Act, 1981 wherein it was stated that every employee who had completed 480 days continuous service, is entitled to be regularized. The respondents instead of following the Act, had relied upon a settlement that has no relevance and dismissed the case on the ground that the petitioner had approached the respondent belatedly. Hence, the writ petitioner has come forward with the present writ petition

before this Court.

3. According to the writ petitioners, they are entitled for the regularization of service with effect from the date of completion of 480 days of service and therefore, the writ petitioners challenging the impugned order passed by the third respondent in Na.Ka.No.E/2413/2014, dated 12.08.2016, has filed these writ petitions.

4. Counter affidavit has been filed by the respondents/Corporation by stating that the petitioner's service was regularized, pursuant to a settlement dated 31.08.2005. In pursuance of the decision taken in the 12 (3) Wage Settlement dated 31.08.2005, the services of the petitioners were regularized. Thereafter, the petitioners are working without any objections and without claiming for any re-fixation of their date of regularization, which was granted with effect from 01.09.2005. It is submitted that the petitioners after a period of 13 years have filed the proceedings before the Inspector of Labour, Vellore, seeking for to reconsider the re-fixation of their date of regularization from their date of appointment. Such a claim was rejected on the ground that the initial claim was made only after a period of 13 years and the petitioners have not agitated the claim within a reasonable time. In similar circumstances, this Court was dismissed the writ petitions Nos.22550 of 2008, 25535 of 2008 and 8751 of 2009, dated 19.08.2014 filed by persons similarly placed like the petitioners on various grounds. It is submitted that the claim of regularization or the re-fixation or wages cannot be determined by this Court in a writ petition as it involves a disputed question of facts.

5. Heard Mr.Purushothaman, learned counsel appearing for the writ petitioners as well as Mr. Antony Arokia Raj, learned counsel appearing for the respondents 1 to 3

6. It is seen that similar writ petitions have been filed before this Court and this Court dismissed the aforesaid writ petitioners on the ground that the aforesaid claim made by the writ petitioners cannot be decided in the writ petition and the petitioners have to seek remedy by approaching the concerned Forum. Therefore, by considering the aforesaid submissions made by the learned counsel for the respondents, this Court is satisfied that the writ petitioners have approached this Court, for claiming the regularization of service without approaching the concerned forum. Therefore, the dispute between the parties can be decided only before the appropriate Forum. The writ petitioners involving a disputed question of fact cannot be gone into by this Court under Article 226 of the Constitution of India and therefore, the writ petitions are not maintainable.

7. With the above observations, all the writ petitions stand dismissed. No costs. It is open to the writ petitioners to seek any remedy before the appropriate Forum.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

To

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

+5cc to Mr.V.Raghavachari, Advocate, S.R.No. 4644 to 4648
+1cc to Mr.A.Antony Arockiaraja, Senior Counsel (TNSTC)
Advocate, S.R.No. 5013

W.P.Nos.7682 to 7686 of 2017

SJ(CO)
GN(26/06/2020)

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