

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.897 of 2021
and C.M.P.No.5371 of 2021

- 1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
12, Thambusamy Salai,
Kilpauk, Chennai - 10.
- 2.Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
No.7, Conron Smith Road,
Gopalapuram, Chennai - 86. ... Appellants

Vs

- 1.M.Pechimuthu
State General Secretary
Tamil Nadu Civil Supplies Corporation,
Employees' Union on Behalf of
M.Perumal, 12, Thambusamy Salai,
Kilpauk, Chennai - 10.
- 2.Inspector of Labour,
II Circle, No.33
Venkat Narayana Road,
2nd Floor, Nandanam,
Chennai - 35. .. Respondents

Appeal filed under Clause 15 of the Letters Patent against
the order dated 11.06.2019 made in W.P.No.357 of 2012.

W.P.No.357 of 2012: Calling for the records of the Second
Respoondent Pertaining to the proceedings issued in
Pa.MU.No.E/4952/08 dated 31.05.2010 and quash the same.

For Appellants : Mr.C.Selvaraj

For Respondents : Mr.V.Prakash, Sr.Counsel
for Mr.S.R.Bubalachandran
for R1

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This writ appeal is directed against the order dated 11.06.2019 passed in W.P.No.357 of 2012.

2.The first respondent, on behalf of the worker by name Perumal (Sweeper), approached the statutory authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, on the premise that he was working from 2004 onwards on a consolidated pay and completed 480 days of uninterrupted service as on 10.12.2005.

3.The Inspector of Labour, upon hearing the parties, allowed the application filed by the first respondent. Reliance has been made on the communication sent to the higher authority by the management dated 10.07.2007, which indicates the nature of work done and the payment received on a consolidated basis. The Inspector of Labour has made reliance upon another communication sent by the first appellant to the Government dated 12.01.2007, by which recommendation has been made for making the workman as permanent.

4.Before the learned Single Judge, the appellant placed reliance upon the communication dated 06.08.1999. Considering the above and after taking note of the same, the learned Single Judge dismissed the writ petition holding as under:

"8. The contention of the learned counsel for the petitioners is that the worker Perumal was not engaged even on temporary basis in the petitioners' godown and he was engaged only for fumigation work of spraying and air charging as per the capacity of godown through the permanent loadmen working in the said godown. There is no sanctioned post of Sweeper in the godown. The worker Perumal could not have worked for 480 days continuously from 18.08.2004 to 10.12.2005. The 1st respondent has filed a letter dated 06.08.1999, wherein the 1st petitioner has fixed wages of Sweeper based on the capacity of the godown. In view of the same, the contentions of the petitioners that the work of the Sweeper is not perennial in nature and they are engaged only at the time of receipt of issue of stocks and there is no sanctioned post of Sweeper, are not acceptable. The 1st respondent in his application has stated the nature of work done by the worker Perumal. The petitioners have not examined the godown manager to disprove the said contention of the 1st respondent and they have not produced any material to show as

to how they calculated the number of days worked by the worker and arriving at the amounts payable by them, when no Attendance Register is maintained for the worker Perumal. The godown Manager of the petitioners has written a letter dated 10.07.2007 to the 2nd petitioner stating that the worker has worked continuously for 480 days. The petitioners have not disputed the genuineness of the said letter. Further, the 1st petitioner by the letter dated 12.01.2007 bearing Reference Na.Ka.No.ALD4/136307/2005 has written to the Government for regularisation of service of the worker Perumal. Considering the above materials, I hold that there is no error in the order of the 2nd respondent ordering permanency of the worker Perumal warranting interference by this Court."

5.Learned counsel appearing for the appellants reiterated the aforesaid submission before us.

6.Learned Senior Counsel appearing for the first respondent submitted that the Inspector of Labour considered the relevant materials placed before him and therefore, no interference is required.

7.We do not find any merit in this appeal. On perusal of the order of the Inspector of Labour, we find that all the materials relevant were taken into consideration. The letter dated 06.08.1999, it appears, has not been placed before the Inspector of Labour. However, the same was considered correctly by the learned Single Judge. The fact remains that the workman was appointed on a consolidated basis and working from 2004 onwards. A factual finding has been given with respect to the continuous employment of 480 days to make him eligible for permanent employment.

8.In such view of the matter, we do not find any procedural violation especially in the light of the factual adjudication made warranting interference. Accordingly, the writ appeal stands dismissed. No costs. consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

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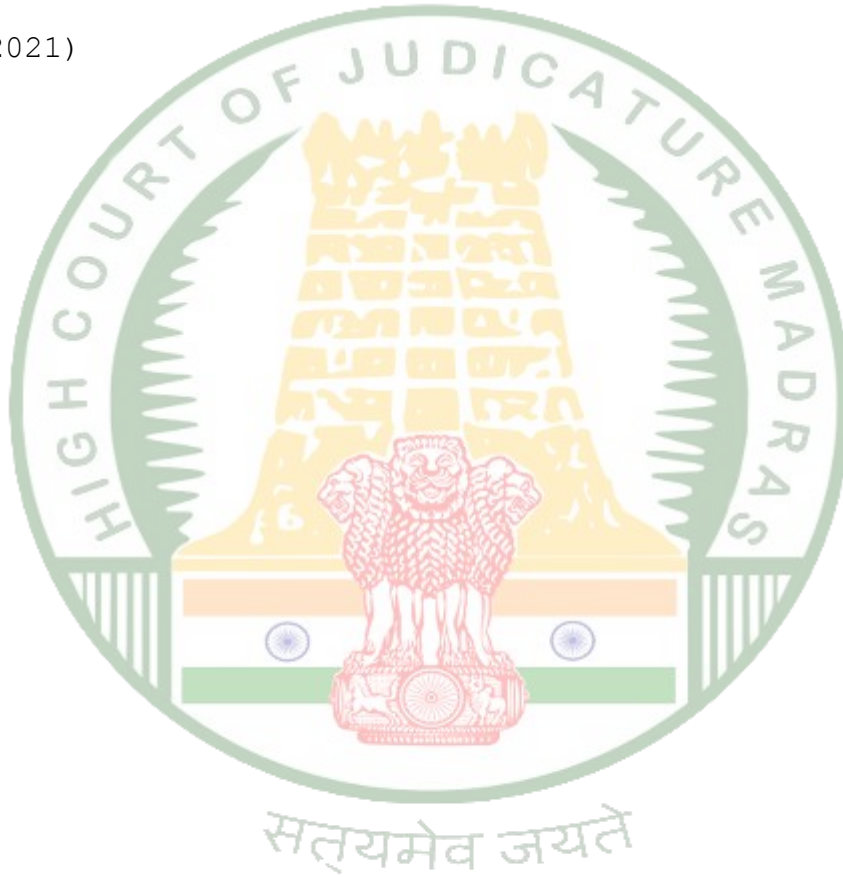
The Inspector of Labour,
II Circle, No.33
Venkat Narayana Road,
2nd Floor, Nandanam, Chennai - 35.

+1cc to Mr.C.Selvaraj, Advocate, S.R.No. 25947

+1cc to Mr.U.Manogar, Advocate, S.R.No. 26192

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