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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.24864 OF 2012

AND

M.P.NO.2 OF 2012

The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
H38/A10, Manickampalayam Housing Unit,
Erode - 638 011.

... Petitioner

-Vs-

1. The Tamilnadu Civil Supplies Corporation,
Employees' Union [325/CPT]
Represented by its Regional Secretary,
On behalf of Shanthi, Ponnammal & Rani,
Erode Region,
H/38/A10, Manickampalayam Housing Unit,
Erode - 638 011.

2. The Inspector of Labour,
Erode - 638 009.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, 1950, to issue Writ of Certiorari of the Second Respondent pertaining to the proceedings issues in Na.Ka.No.184/2009 dated 27.12.2010 and quash the same.

For Petitioner : Mr.C.Munusamy

For Respondents: Mr.S.Vadivel Murugan (for R1)

Mr.C.Harsha Raj,
Government Counsel (for R2)

O R D E R
(through video conference)

Heard Mr.C.Munusamy, Learned Counsel for the Petitioner, Mr.S.Vadivel Murugan, Learned Counsel for the First Respondent and Mr.C.Harsha Raj, Learned Government Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

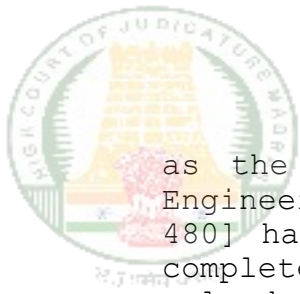


2. The Petitioner, viz., Tamil Nadu Civil Supplies Corporation, has been established by the Government of Tamil Nadu for procurement, storage and distribution of food grains in the State. The First Respondent, which is a Trade Union, made an application under Section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as 'the Permanent Status Act' for short) in Na.Ka.No.184/09 before the Second Respondent claiming that its members, viz., Shanthi, Ponnamal and Rani, who had been employed as sweepers in the godown of the Petitioner in Erode were entitled to the benefit of conferment of permanent status on having completed 'continuous service' of 480 days in a period of 24 calendar months in that industrial establishment. The Second Respondent by Order in Na.Ka. No. 184/09 dated 27.12.2010 granted that benefit sought to the said persons, which is assailed in this Writ Petition.

3. Learned Counsel for the Petitioner contends that despite the objections raised by the Petitioner, the Second Respondent has extended the benefits under the Permanent Status Act to the concerned employees without any evidence in proof of their claim.

4. Learned Counsel for the First Respondent submits that the Petitioner has been adopting unfair labour practices by employing sweepers in the godown of the Petitioner for long periods without regularizing their services and has been denying them of their legitimate rights and the consequential monetary emoluments and cites the decision of the Division Bench of this Court in Managing Director, Tamil Nadu Civil Supplies Corporation, Chennai -vs- M.Pechimuthu (Order dated 28.04.2021 in W.A. No. 897 of 2021), where it was declined to interfere with an order granting permanent status to the similarly placed persons in another establishment of the Petitioner.

5. Having regard to the rival submissions made, this Court called for the records from the Second Respondent so as to examine whether the relief granted to the concerned persons in the impugned order is supported by the evidence lead by the parties. In furtherance thereto, Learned Government Counsel appearing for the Second Respondent has produced the records from which it has been noticed that though there are materials available to show that the concerned persons had been actually employed at the godown of the Petitioner in Erode, the Second Respondent has not recorded the basis for the factual satisfaction of the essential condition that the said persons had completed the 'continuous service' of 480 days in a period of 24 calendar months for extending the said benefit to them. In such circumstances, it is not possible to uphold the impugned order, which has to be necessarily set aside. However, inasmuch



as the Division Bench of this Court in R.Lakshmi -vs- Chief Engineer (Personnel), Tamil Nadu Electricity Board [(2012) 6 MLJ 480] has pointed out the legal position that a workman, who has completed 480 days of continuous service in a period of 24 calendar months, would become automatically a permanent employee under the employer, even if the employer had not conferred him with the permanent status, or even if no direction was issued by the competent authority in that regard under the Permanent Status Act or the Rules framed thereunder, the concerned employees in this case, on their acquiring the prescribed qualification, are not precluded from working out their rights for the benefits under the Permanent Status Act in fresh legal proceedings in the manner recognized by law.

6. In view of the foregoing discussion, the impugned Order in Na.Ka.No.184/09 dated 27.12.2010 passed by the Second Respondent is set aside with the aforesaid clarification.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Maya/vjt

To

1. The Regional Secretary,
Tamil Nadu Civil Supplies Corporation,
Employees' Union [325/CPT] Erode Region,
H/38/A10, Manickampalayam Housing Unit,
Erode - 638 011.
2. The Inspector of Labour,
Erode - 638 009.

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RR(CO)
PBS/25/11/2021