



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

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

W.P. No. 32233 of 2012

and

M.P. No. 1 of 2012

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.

2. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thiruvarur Region,
Thiruvarur.

... Petitioners

-vs-

1. K.Chinnathal

2. B.Saradha

Represented by
C/o. State Secretary,
Tamil Nadu Civil Supplies Corporation Employees Union,
12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.

3. The Labour Inspector,
Thiruvarur.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, praying to call for the records of the Third Respondent in C.P.S. No. 3320 of 2008 dated 16.04.2012.

For Petitioners : Mr. C.Munusamy

For Respondents : Mr. V.Prakash, Senior Counsel
for Mr. U.Manogar (for R1 and R2)

Mr. C.Harsha Raj,
Government Counsel (for R3)



O R D E R
(through video conference)

Heard Mr. C.Munusamy, Learned Counsel for the Petitioners, Mr. V.Prakash, Learned Senior Counsel appearing for the First and Second Respondents and Mr. C.Harsha Raj, Learned Government Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners, viz., Tamil Nadu Civil Supplies Corporation, have been established by the Government of Tamil Nadu for procurement, storage and distribution of food grains in the State. The First and Second Respondents through the Trade Union in which they claim to be members, 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 C.P.S. Case No. 3320 of 2008 before the Third Respondent contending that they had been employed as sweepers in the godown of the Petitioners in Akkur and 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 Third Respondent by Order in C.P.S. Case No. 3320 of 2008 dated 16.04.2012 granted that benefit sought to the First and Second Respondents, which is assailed in this Writ Petition.

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

4. Learned Senior Counsel appearing for the First and Second Respondents submits that the Petitioners have been adopting unfair labour practices by employing sweepers in the godowns of the Petitioners 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 Petitioners.

5. Having regard to the rival submissions made, this Court called for the records from the Third Respondent so as to



examine whether the relief granted to the First and Second Respondents in the impugned order is supported by the evidence lead by the parties. In furtherance thereto, Learned Government Counsel appearing for the Third Respondent has produced the records from which it has been noticed that in respect of the First Respondent, the Chairman and Managing Director of the Petitioners by Letter No. Rc.ALB4/135307/2005 dated 12.01.2007 has recommended to the Special Secretary to the Government of Tamil Nadu, Co-operation, Food & Consumer Protection Department for the regularization of her service as she had rendered more than two years of service satisfying the requirement of completing the continuous service of 480 days in a period of 24 calendar months for extending the benefit under the Permanent Status Act.

6. The natural consequence that flows from the conferment of permanent status by operation of the Permanent Status Act is that the payment of wages of the amount equivalent to that of a regular employee has to be extended and in this context, it would be useful to refer to the decision of the Hon'ble Supreme Court of India in State of Punjab -vs- Jagjit Singh [(2017) 1 SCC 148], where it has been observed as follows:-

"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a Welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

In that view of the matter, there is no infirmity in the impugned order in respect of the relief granted to the First Respondent.

7. Insofar as Second Respondent is concerned, though there are materials available to show that she had been actually



employed in the godown of the Petitioners in Akkur, the Third Respondent has not recorded the basis for the factual satisfaction of the essential condition that she had completed the continuous service of 480 days in a period of 24 calendar months to extend the said benefit claimed. In such circumstances, it is not possible to uphold the order as far as the Second Respondent is concerned, 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 Second Respondent in this case, on her acquiring the prescribed qualification, is not precluded from working out her rights for the benefits under the Permanent Status Act in fresh legal proceedings in the manner recognized by law.

8. In view of the foregoing discussion, the impugned Order in C.P.S. Case No. 3320 of 2008 dated 16.04.2012 passed by the Third Respondent is confirmed in respect of the First Respondent, but is set aside in respect of the Second Respondent with the aforesaid clarification.

9. 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

vjt

To

1. The Labour Inspector,
Thiruvarur.

W.P. No.32233 of 2012

NMI (CO)
K.RK. (25.11.2021)