



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

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

W.P.NO.33787 OF 2012

AND

M.P.NO.1 OF 2012

1. The Management/the Managing Director,
Tamil Nadu Civil Supplies Corporation,
No. 12, Thambusamy Salai,
Kilpauk, Chennai - 600 010.
2. The Management/Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Goundampalayam, Coimbatore - 641 030.

... Petitioners

-Vs-

1. P.S.Thangamani
2. R.Palaniammal
3. A.Marathal
4. K.Kannammal
5. K.Palanal
6. A.Sundrammal
7. M.Mariammal
8. S.Malliga begum
9. K.Valliammal
10. T.Sundrammal
11. S.Sampath rani
12. R.Jothimani
13. K.Sampooranam



14. M.Kilia

15. N.Lakshmi

16. P.Jayajothi

17. N.Kanniammal

18. S.Arukkani

19. A.Rani

All are represented by State General Secretary,
Tamil Nadu Civil Supplies Corporation Employees Union,
Regn. No. 325/CPT,
No. 12, Thambusamy Salai,
Kilpauk, Chennai - 600 010.

20. The Inspector of Labour,
Coimbatore.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, 1950, to issue Writ of Certiorari calling for records relating to the award made in Na.Ka.No.E/3500/2008 dated 27.02.2012 on the file of the 20th respondent/Inspector of Labour, Coimbatore and quash the same.

For Petitioners: Mr.C.Munusamy

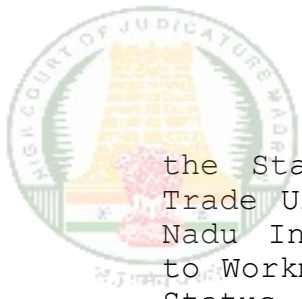
For Respondents : Mr.V.Prakash, Senior Counsel
for Mr.U.Manohar (for R1 to R19)

Mr.C.Harsha Raj,
Government Counsel (for R20)

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 to Nineteenth Respondents and Mr. C.Harsha Raj, Learned Government Counsel appearing for the Twentieth 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 to Nineteenth Respondents through their 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. E/3500/2008 before the Twentieth Respondent claiming that they had been employed as sweepers in the godowns of the Petitioners at various places 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 Twentieth Respondent by Order in Na.Ka.No.E/3500/2008 dated 27.02.2012 granted that benefit sought to the said persons, which is assailed in this Writ Petition.

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

4. Learned Senior Counsel appearing for the First to Nineteenth 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 Twentieth 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 Twentieth Respondent has produced the records from which it has been noticed that in respect of the First to Fourth and Sixth to Nineteenth Respondents, 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 their services as they 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 to Fourth and Sixth to Nineteenth Respondents.

7. Insofar as Fifth Respondent is concerned, though there are materials available to show that she had been actually employed in the godown of the Petitioners in Kangeyam, the Twentieth 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 Fifth 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 Fifth 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 Na.Ka.No.E/3500/2008 dated 27.02.2012 passed by the Twentieth Respondent is confirmed in respect of the First to Fourth and Sixth to Nineteenth Respondents, but is set aside in respect of the Fifth 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

Maya/vjt

To

1. The Inspector of Labour,
Coimbatore.

W.P.NO.33787 OF 2012

RR(CO)
PBS/25/11/2021