

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NO.41005 OF 2016  
AND WMP NOS.35015 & 35016 OF 2016  
AND 6704 OF 2017

The Management  
Tamil Nadu State Transport Corporation  
(Villupuram) Limited  
Head Office, Thiruvannamalai Region,  
Bye Pass Road, Vengikal,  
Thiruvannamalai. ... Petitioner

Versus

1.The Inspector of Labour  
Authority under Tamil Nadu Industrial Establishments  
(Conferment of Permanent Status to Workmen)  
Act, 1981 (Tamil Nadu Act 46 of 1981)  
Thiruvannamalai.  
2.Thiru V.Pandiyar ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the order passed by the 1<sup>st</sup> respondent in Na.Ka.No.E/1356/2015 dated 26.10.2015 and to quash the same as illegal.

For Petitioner : Mr.C.S.K.Sathish

For Respondent-1 : Mr.V.Kadhirvelu  
Special Government Pleader

For Respondent-2 : Mr.D.Veerasekaran

O R D E R

Challenging the order of the first respondent granting permanent status to the second respondent/workman on his completion of 480 days of service, the petitioner/Management has preferred the above Writ Petition.

2. According to the petitioner/Management, the second respondent has approached the first respondent / Authority with enormous delay and such delay is fatal to the relief sought for by him and that he has not given any valid reasons to assail the binding nature of the Settlement under Section 12(3) which had taken effect from 01.09.2005.

3. Per contra, the learned counsel for the second respondent / workman would contend that he was appointed on 10.02.1998 and the co-workers who were appointed along with him were given permanent status with effect from 04.06.1999. However, in so far as the second respondent is concerned, he was not given permanent status due to his participation in the strike organized by the Union. Later, he was dismissed from service. The approval petition filed by the Management was rejected.

4. Challenging the same, the Management filed a Writ Petition in W.P.No.36748 of 2005, in which, this Court passed an order on 21.03.2006. This Court recorded the Settlement reached between the Union and the Management, whereby actions against the persons, who participated in all other proceedings will be dropped and that all the temporary workers would be regularised in service as per the Settlement under Section 12(3) dated 01.09.2005. Thereafter, the second respondent was issued with permanent status with effect from 04.01.2007.

5. Aggrieved over the same, the second respondent / workman preferred a Writ Petition in W.P.No.13854 of 2008, wherein, he was granted liberty to exhaust the alternative remedy available to him. Thus, he filed a petition before the first respondent for conferment of permanent status. The first respondent has directed the Writ Petitioner/Management to grant permanent status to the workman from the date of his initial appointment vis., 10.02.1998.

6. During the arguments, the learned counsel for the petitioner would submit that there is no dispute with regard to granting of permanent status to the second respondent. The actual dispute is with regard to the date of granting the same. Now that the first respondent has granted permanent status with effect from the date of his joining. However, the Writ Petitioner alleges that there is enormous delay in filing the petition before the first respondent in spite of the orders passed by this Court in W.P.No.13854 of 2008 dated 26.02.2013. For that purpose, the second respondent has filed an Affidavit dated 28.03.2021 giving up his backwages for the interregnum period between 18.03.2013 and 21.05.2015 and has undertaken to pay the employer's contribution, for the purpose of getting pension.

7. Accordingly, this Court is inclined to pass the following order:

(i) The second respondent / workman is not entitled to any monetary benefits for the interregnum period between 18.03.2013 and 21.05.2015.

(ii) The amount payable towards employer's contribution for the interregnum period shall be adjusted from the terminal benefits payable to the second respondent / workman.

(iii) The petitioner is directed to settle all the terminal benefits after adjusting the dues towards employer's contribution, within a period of eight weeks from the date of receipt of a copy of this order.

8. The Writ Petition is ordered in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

TK

To

The Inspector of Labour  
Authority under Tamil Nadu Industrial Establishments  
(Conferment of Permanent Status to Workmen)  
Act, 1981 (Tamil Nadu Act 46 of 1981)  
Thiruvannamalai.

+1cc to Mr.C.S.K.Sathish, Advocate SR.No.21252

+1cc to Mr.D.Veerasekaran, Advocate SR.No.21264

WP NO.41005 OF 2016

RK (CO)  
GMY (08/07/2021)