



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI  
W.P. (MD)No.4298 of 2012

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The Managing Director,  
Tamilnadu State Transport Corporation,  
Madurai Division-II Ltd.,  
Tirunelveli.

... Petitioner

Vs.

1.The Presiding Officer,  
Labour Court,  
Tirunelveli.

2.K.Narayanan

... Respondents

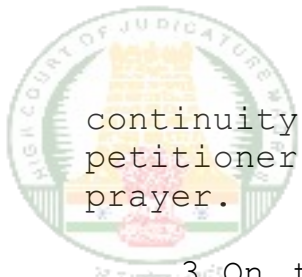
**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the 1<sup>st</sup> respondent pertaining to its proceedings in I.D.No.41 of 2005, dated 23.12.2010 and quash the same.

For Petitioner : Mr.S.C.Herold Singh  
For R2 : Ms.D.Geetha

**O R D E R**

This writ petition has been filed by the petitioner, to call for the records on the file of the 1<sup>st</sup> respondent pertaining to its proceedings in I.D.No.41 of 2005, dated 23.12.2010 and quash the same.

2.The case of the petitioner is that the petitioner is the Tamilnadu State Transport Corporation and the second respondent is the workman on temporary daily rated basis and he was assigned duty subject to the availability of the work. Even at the time of engagement, it was made clear that the engagement made could be terminated at any time without any notice. At no point of time, the 2<sup>nd</sup> respondent has worked continuously for 240 days. The 2<sup>nd</sup> respondent was not engaged regularly due to non-availability of work. However, the 2<sup>nd</sup> respondent obtained an Award, dated 23.10.2012 in I.D.No.41 of 2005, in his favour. The Labour Court has directed the petitioner to reinstate the 2<sup>nd</sup> respondent with



continuity of service and back wages. Challenging the same, the petitioner has filed the present Writ Petition with the aforesaid prayer.

3. On the side of the second respondent/employee, one witness was examined and documents Ex.W.1 to Ex.W.14 were marked and on behalf of the petitioner, one witness was examined and no document was marked.

4. After analyzing the oral and documentary evidence, the Labour Court directed the Transport Corporation to reinstate the 2<sup>nd</sup> respondent-employee as a daily wage rate workman with continuity of service and to pay the daily wage rate prevailing as on date. The arrears of wages shall also be calculated and paid at that rate, which was applicable to the daily wage employee during the relevant period along with other benefits applicable. As against the Award of the Labour Court, the present writ petition is filed.

5. The learned counsel appearing for the petitioner submitted that the 2<sup>nd</sup> respondent was not appointed by the competent authority and he was not sponsored through the Employment Exchange. Therefore, the very entry of the 2<sup>nd</sup> respondent would amount to back door entry and the same cannot be regularized. Even at the time of engagement itself, it was made clear that the engagement was temporary and the same is liable to be terminated without any notice as the engagement is only on the piece rate basis. There is no employer employee relationship exists between the petitioner and the 2<sup>nd</sup> respondent. The work done by the 2<sup>nd</sup> respondent is neither permanent nor perennial and he was engaged on the basis of the exigency and such engagement will not confer any right. However, the Labour Court arrived at a conclusion that as if the second respondent had worked from 04.05.2000 to 13.04.2001 as daily rated employee and received Rs.50/- per day and passed an award in favour of the second respondent, which is non-est in the eye of law and hence, the Award passed by the Labour Court is totally misconceived. Hence, the learned counsel prays for allowing the present writ petition.

6. The learned counsel appearing for the second respondent submitted that the crucial issue involved in the present case is whether the second respondent had continuously worked from 04.05.2000 to 13.04.2001 as daily rated employee and whether the first respondent has served 240 days continuously in the said calendar year, which was established through Ex.W.4 to Ex.W.14 before the Labour Court and based on the said documents, the Labour Court has passed the award. Hence, the order of Labour Court cannot be interfered with and he prays for dismissal of the present writ petition.



7. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the 2<sup>nd</sup> respondent-employee and carefully perused the materials placed on record.

8. Before this Court venture into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the Award of the Labour Court. The Hon'ble Supreme Court, in catena of decisions, held that normally a Writ Court should not interfere with the Award of the Labour Court, unless the award is perverse. It has been further held that if the Award is not irrational or perverse, the High Court should not interfere with the reasons in the Award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned Award.

9. The facts in the present case are not in dispute. The second respondent has worked as a workman in the petitioner Corporation from 03.07.1998 to 04.05.2000 and received monthly salary of Rs.6,000/- and in that aspect no evidence was produced. However, from 04.05.2000 the second respondent has received Rs.50/- per day and he had worked till 13.04.2001. In order to prove that, the second respondent marked Ex.W.4 to Ex.W.14 before the Labour Court and the same was not disputed by the petitioner Corporation. The Labour Court, based on the documents produced by the second respondent, has passed an award in favour of the second respondent, which order is based on records and the reasons assigned by the Court below are also sustainable and reasonable.

10. In view of the above, this Court finds no error or irregularity in the order passed by the Labour Court. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar (CS)



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To

The Presiding Officer,  
Labour Court,  
Tirunelveli.

+1 CC to MR.S.C.HEROLD SINGH, Advocate ( SR-8029[F] dated  
02/03/2021 )

**W.P. (MD)No.4298 of 2012**  
**01.03.2021**

KM(21.06.2021) 4P 3C