



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) .Nos.2020 and 2021 of 2021

and

C.M.P(MD)Nos.9407 and 9410 of 2021

The Management,
Madurai District Co-operative Milk,
Producers' Union Ltd.,
Sathamangalam,
Madurai-625 020.

.. Appellant/Petitioner in both W.As

Vs.

1.The Presiding Officer,
Labour Court,
District Court Buildings,
Melur Road,
Madurai-625 020

2.R.Venkatachalam .. Respondents/Respondents in both W.As

Common Prayer: Writ Appeals filed under Clause XV of the Letters Patent Act, praying this Court to set aside the order passed by this Court in W.P(MD)Nos.2924 of 2012 and 2283 of 2016 dated 29.07.2021.

Prayer in WP(MD) . 2924/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the 1st respondent relating to Claim Petition No.18/2002, quash the order passed therein dated 07.04.2010.

Prayer in WP(MD) . 2283/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records of the 1st respondent relating to Claim Petition No: 140/2013, quash the order passed therein Dt: 18.06.2015.

For Appellants
in both W.As : Mr.V.O.S.Kalaiselvam
For Caveator in both : No appearance
W.As



COMMON JUDGMENT

(Judgment of the Court was made by P.VELMURUGAN, J.)

These writ appeals have been filed by the appellant against the common order, dated 29.07.2021 passed in W.P(MD)Nos.2924 of 2012 and 2283 of 2016.

2.The second respondent was engaged as a Casual Labour on daily wage basis through Employment Exchange from 11.01.1993. After completion of 480 days, the second respondent filed a petition before the Inspector of Factories, Circle-2, Madurai, for Conferment of Permanent Status, in which, the Inspector of Factories directed the appellant to make the second respondent permanent from 07.05.1994. The said order was put to challenge before this Court by the appellant along with certain other orders in respect of the persons similarly placed to that of the second respondent. Thereafter, the second respondent filed another writ petition for directing the appellant to implement the orders passed by the Inspector of Factories. After hearing the arguments advanced on either side, the Writ Court dismissed the writ petition filed by the appellant and allowed the writ petition filed by the second respondent by directing the appellant to confer permanent status to the employees mentioned in various orders including the order dated 13.12.1996 passed by the Inspector of Factories and to give consequential benefits including arrears of salary and other allowances. The Government of Tamil Nadu by G.O(D)No.169, Animal Husbandry, Dairying and Fisheries (MP.2) Department, dated 22.06.2010 in exercise of powers conferred under Section 170(a) of the Tamil Nadu Co-operative Societies Act, 1983, exempted the appellant from the provisions of Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988 to the extent of relaxation of age in respect of the second respondent to regularize his service as a Casual Labour in the entry level post, as on 12.03.2021 with monetary benefits from 28.09.2007. Though the services of the second respondent had been regularised, he was not paid the differential amount of wages that had fallen due from the date on which he had acquired the permanent status ie., from 07.05.1994, in terms of the order dated 13.12.1996, passed by the Inspector of Factories, till the actual date of his regularization, after deducting the wages, which were already paid to him for that period.

3.In the meanwhile, the Sangam had filed a Contempt Petition in Cont.P(MD)No.278 of 2009, and this Court closed the said contempt petition giving liberty. Taking advantage of the said order, the second respondent approached the Labour Court, Madurai, in claim petitions in C.P.Nos.18 of 2002 and 140 of 2013 under Section 33-C (2) of the Industrial Disputes Act, 1947, to compute the monetary benefits for the period from 07.05.1994 to 30.11.2001 and for the period from 01.04.2001 to 31.12.2013 respectively. By order dated 07.04.2010 and 18.06.2015, the Labour Court allowed the claim



petitions filed by the second respondent and directed the appellant to pay a sum of Rs.1,72,132.85/- and Rs.5,13,087/- respectively to the second respondent. Challenging the orders of the Labour Court, the Management filed the Writ Petitions. The learned Single Judge dismissed the writ petitions on 29.07.2021 by a common order. Aggrieved by the same, the Management/Appellant has filed the present Writ Appeals.

4.Heard Mr.V.O.S.Kalaiselvam, learned counsel appearing for the appellant and perused the materials placed before this Court.

5.It is not in dispute that the second respondent was engaged as a casual labour on daily wage basis from 11.01.1993. Since the second respondent had completed 480 days of continuous service within a period of two years, the Inspector of Factories passed an order of regularization and directed the appellant to extent the consequential monetary and service benefits and that order ended its finality and there was no further challenge regarding the regularization of service of the second respondent and to give monetary benefits. Therefore, in order to execute the order passed by the Inspector of Factories, the second respondent has approached the Labour Court by way of claim petitions and that were allowed and computed the monetary benefits and also directed the appellants to pay the same. Challenging the order of the Labour Court, the Management/appellant has filed the writ petitions.

6.Though the Management/appellant has raised many grounds in the writ petitions, mainly three grounds have been focussed. The first ground is that the Government of Tamil Nadu, in G.O.(D) No.169, Animal Husbandry, Dairying and Fisheries (MP.2) Department, dated 22.06.2010, had expressly regularised the services of the second respondent in the entry level post as on 12.03.2001 and granted monetary benefits from 28.09.2007 and in the absence of any challenge thereto, the second respondent was not entitled to monetary benefits for any date prior to 28.09.2007. The Writ Court has rejected the aforesaid contention made by the appellant citing the decision of the Division Bench of this Court, in the case of **R.Lakshmi -vs- Chief Engineer (Personnel), Tamil Nadu Electricity Board**, reported in **(2012) 6 MLJ 480**, wherein, this Court has held that a workman, who had completed 480 days of continuous service in a period of 24 calendar month, 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.

7.The second ground raised by the appellant is that the regularization of the second respondent in service is contrary to the dictum laid down by the Division Bench of this Court in **L.Justine -vs- Registrar of Co-operative Societies**, reported in



(2002) 4 CTC 385 and that the appointment had not been made against a sanctioned vacancy. The said issue has attained finality and age relaxation was also given in the case of the second respondent to regularize his service.

8. The third ground is that as if there is no evidence to prove that the scale of pay adopted by the second respondent was based on the scale of pay applicable to the post held by him. It is evident from the impugned orders that the computation of the monetary benefits has been substantiated by relevant documents, more particularly, those issued by the appellant, but no efforts have been taken by the appellant to adduce evidence to contradict the same. In both the writ petitions, the appellant has not shown any error in the computation of the monetary benefits made. The payment of wages of the amount equivalent to that of a regular employee is a natural consequence that flows from the conferment of permanent status by operation of the Permanent Status Act and it is not the case of the appellant that the second respondent had not worked during the relevant period. The claim of the second respondent in the impugned proceedings is only for the differential wages.

9. All the three focus points raised by the appellants were answered by the Writ Court by giving valid sound reasons, in which, this Court does not find any infirmity. Since the regularization has ended its finality, there was no further challenge regarding the regularization and the Writ Court has rightly rejected the main grounds taken by the appellants and therefore, we find no sound reason to interfere with the order passed in the writ petitions and accordingly, the writ appeals fail.

10. For the foregoing reasons, the Writ Appeals stand dismissed. No costs. Consequently, connected C.M.Ps are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

The Presiding Officer,
Labour Court,
District Court Buildings,
Melur Road,
Madurai-625 020.

+1 CC to M/s.V.O.S. KALAISELVAM, Advocate (SR-34794[F] dated
17/11/2021)

W.A. (MD) .Nos.2020 and 2021 of 2021

15.11.2021

DJ(CO)

GC(16.12.2021) 5P 3C