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W.A.No.2634 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.10.2022**

CORAM:

THE HONOURABLE MR.**JUSTICE R.SUBRAMANIAN**

AND

THE HONOURABLE MR.**JUSTICE K.KUMARESH BABU**

Writ Appeal No.2634 of 2012
and MP No.1 of 2012

V. Jayaraman

..Appellant

Vs.

1. Mr.M.E.Devarajan, Chairman,
Sri Ram Educational Trust,
No.22, Evening Bazar Road,
Chennai 600 003.

2. Competent Authority/ The Inspector of Labour-III,
Conferment of Labour Status,
Chennai 3 Division.

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court dated 01.02.2012 passed in W.P.No.27690 of 2007.

For Appellant : Mr.K.Sivakumar
for M/s.A.S.Mujibur Rahman

For Respondents : Ms.V.V.Uthra
Mr.K.J.Parthasarathy, for R1

R2 – unnecessary party



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JUDGMENT

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The challenge in this Writ Appeal is to the order of the Writ Court reversing the order of the Competent Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, hereinafter referred to as “Tamil Nadu Act, 46 of 1981”, directing the first respondent to accord permanent Status to the appellant. The appellant moved the Authority under the *Tamil Nadu Act 46 of 1981*, seeking conferment of permanent status on the ground that he has completed 480 days of service within a period of 24 calendar months. The Authority accepted the claim of the appellant and directed conferment of permanent status. Aggrieved the Management filed the Writ Petition seeking a Writ of Certiorari.

2. The Writ Court found that the Management does not come within the purview of the definition of an Industrial Establishment under the *Tamil Nadu Act 46 of 1981*, on such finding the Writ Court allowed the Writ Petition and rejected the claim of the appellant. During the pendency of the Writ Petition, the first respondent Management had brought the appellant



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into regular time scale of pay and the said fact was also recorded by the Writ Court. The Writ Court thus allowed the Writ Petition with the rider that the status of the appellant as an employee with regular time scale of pay will not be disturbed by the fact that this Court has allowed the Writ Petition.

3. We have heard Mr.Sivakumar, learned counsel appearing for the appellant and Ms.V.V.Uthra, learned counsel appearing for Mr.K.J.Parthasarathy, for the first respondent. The second respondent has not been served, notice to the second respondent is deemed unnecessary because the second respondent is the Competent Authority under the *Tamil Nadu Act 46 of 1981*.

4. Mr. Sivakumar, learned counsel appearing for the appellant would vehemently contend that the Writ Court fell in error in concluding that the petitioner is not entitled to permanent status, as the establishment in which he is working is not an industrial establishment as defined under the *Tamil Nadu Act 46 of 1981*. The learned counsel would point out that even Educational Institutions have been held to be an industry and therefore, the narrow interpretation placed by the Writ Court has to be interfered with.



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5. Contending contra, Ms.V.V.Uthra, learned counsel appearing for the first respondent would submit that *Tamil Nadu Act 46 of 1981*, being a special enactment conferring certain benefits on certain category of workmen, it has to be interpreted strictly and a wide interpretation of the term workmen as available under the Industrial Disputes Act cannot be applied. She would further point out that unless the petitioner satisfies that he has been working in an industrial establishment as defined under Subsection 3 of Section 2 of *Tamil Nadu Act 46 of 1981*, the question of conferment of permanent status would not arise. Admittedly in the case on hand the petitioner is working in a ladies hostel attached to an Engineering College. This ladies hostel can, by no stretch of imagination be brought under the definition of the term Industrial Establishment under Section 2(3) of the *Tamil Nadu Act 46 of 1981*, which reads as follows:

(3) “ *industrial establishment* ” means---

(a) *a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (Central Act LXIII of 1948) or any place which is deemed to be a factory under sub-section (2) of section 85 of that Act; or*



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(b) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951); or

(c) a motor transport undertaking as defined in clause (g) of section 2 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961); or

(d) a beedi industrial premises as defined in clause (i) of section 2 of the Beedi and Cigar Workers (conditions of employment) Act, 1966. (Central Act 32 of 1966); or

(e) an establishment as defined in clause (6) of section 2 of the Tamil Nadu Shops and Establishment Act, 1947 (Tamil Nadu Act XXXVI of 1947); or

(f) a catering establishment as defined in clause(1) of section 2 of the Tamil Nadu Catering Establishment Act, 1958.(Tamil Nadu Act XIII of 1958) ; or

(g) any other establishment which the Government may, by notification, declare to be an industrial establishment for the purpose of this Act;



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6. The Writ Court has even gone a step further and examined as to whether the petitioner could be treated as a person working in a catering establishment and has found that the definition of the term catering establishment under the Tamil Nadu Catering Establishments Act, excludes a canteen attached to a Educational Institution. Therefore, according to the learned counsel, by no stretch of imagination, the petitioner can be said to be a person working in an Industrial Establishment as defined under Section *Tamil Nadu Act 46 of 1981*.

7. We have considered the rival submissions.

8. As rightly contended by the learned counsel appearing for the respondent, the Act being a beneficial enactment, which invests a certain benefit on certain class of workmen, the same cannot be extended to others. Unless the appellant is able to establish that the establishment in which he is working as a temporary employee is an Industrial Establishment as defined under Section 2(3) of the *Tamil Nadu Act 46 of 1981*, the appellant would not be entitled to the benefit of conferment of permanent status.



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9. We therefore do not see any infirmity in the order of the Writ

Court to enable us to interfere with the same. The Writ Appeal fails and it is accordingly dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (K.KUMARESH BABU, J.)
18.10.2022

Index: No
Internet: Yes
speaking order
jv

To

Competent Authority/ The Inspector of Labour-III,
Conferment of Labour Status,
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(jv)

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