



W.P.(MD)Nos.1966 to 1971 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.1966 to 1971 of 2014

and

M.P.(MD)Nos.1, 2, 2, 2, 2 of 2014

W.P.(MD)No.1966 of 2014

1. The General Manager,
Tamil Nadu State Transport Corporation,
Division No.(III), Ranithottam,
Nagercoil Region, Kanyakumari District.

2. The Managing Director,
Tamil Nadu State Transport Corporation,
Division No.(III), Nagercoil,
Bye Pass Road, Madurai – 10.

Now The Managing Director,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited, Tirunelveli.

... Petitioners

vs.

1. The Deputy Commissioner of Labour,
The Deputy Commissioner of Labour Court,
(Authority Under Payment of Wages Act),
Tirunelveli.

2. R.Thanislal

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records from the 1st Respondent the Deputy Commissioner of Labour, Tirunelveli, relating to the award passed by it in P.W.No. 40 of 2010 dated 09.05.2013 and quash the same and to grant such further or other orders.

In all Writ Petitions

For Petitioners	: Mr.K.Sathiya Singh
For R-1	: Mr.C.Baskaran, Government Advocate (Civil Side)
For R-2	: Mr.A.P.Muthu Pandian

COMMON ORDER

W.P.(MD)Nos.1966 to 1971 of 2014 is filed for issuance of a *Writ of Certiorari*, to quash the Order, dated 09.05.2013, passed by the 1st Respondent/the Deputy Commissioner of Labour, Tirunelveli, relating to the award passed by it in P.W.No. 40 of 2010 .

2. The issues involved in the writ petitions filed in ***W.P.(MD)No. 1966 to 1971 of 2014*** are one and the same and hence all the writ petitions are taken up and this common order is passed.



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3. The 2nd respondent was working as Bus Body Cleaner in the petitioner Corporation. The 2nd respondents had filed a claim petition before the 1st respondent, claiming that they have completed 480 working days in the Corporation and they are entitled to minimum wages of Rs.3,104/- with Dearness Allowance of Rs.1,980/-, *as per G.O.(2)No.47 dated 01.08.2003*. For the month of April 2010 and May 2010 since they have not received the salary they have filed claim petition. The 1st respondent is entitled to pay a sum of Rs.10,164/- each, as minimum wages plus 10 times, as penalty of Rs.10,000/-.

4. The contention of the petitioner Corporation is that the “Bus Body Cleaner” post is not a regular post and there is no sanction post for the same. Moreover, it is not a continuous service. The petitioner is not maintaining any salary register and or attendance register. The further contention of the petitioner is that the 2nd respondent ought to have proved that they are regular employees through evidences. The 1st respondent has directed the petitioner Corporation to prove the negative claim. Therefore, the petitioner/Corporation has come forward to file this Writ Petition to quash the order passed by the 1st respondent.



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5. Heard Mr.K.Sathiya Singh, learned counsel appearing for the petitioners and Mr.C.Baskaran, learned Government Advocate (Civil Side) appearing for the 1st respondent and Mr.A.P.Muthu Pandian, learned counsel appearing for the 2nd respondent, in all the Writ Petitions. Perused the material documents available on record.

6. The learned counsel appearing for the petitioner submitted that a similar order was passed by the Labour Authority in P.W. No.2 of 2014, before the Tirunelveli District. The authority has denied the claim of the similarly placed workers, by stating that the workers are bound to prove that they were working as Bus Body Cleaners, since they have not produced any evidence and they are not entitled to claim benefits. The Labour authority has also relied on the Judgment, dated 30.08.2007 rendered by this Court in W.P. No.2590 of 2001, and its Batch.

7. On perusal of the list of documents, Ex.P.4, dated 31.03.2010, the petitioner has directed the respondents to carry on the work of bus body cleaning. The respondents have only authorized to clean, but there is no appointment order or any other order that was placed before the authority.



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8. Considering the facts, this Court is of the considered opinion that the penalty is on the higher side. Admittedly, the 2nd respondent was granted the work of the Bus body cleaning. Therefore, in order to meet the ends of Justice, this Court fixing the amount for salary, as well as penalty, as a full and final settlement to the tune of Rs. 40,000/-.

9. Accordingly, these Writ Petitions are disposed of. The petitioner Corporation is directed to pay a sum of Rs.40,000/- to the 2nd respondent in all the Writ Petitions. The said amount shall be paid, within a period of eight weeks from the date of receipt of copy of the order. No Costs. Consequently, connected miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes
ksa

25.11.2022

To

The Deputy Commissioner of Labour,
The Deputy Commissioner of Labour Court,

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(Authority Under Payment of Wages Act),
Tirunelveli.

S.SRIMATHY, J

ksa

Common Order made in
W.P.(MD)Nos. 1966 to 1971 of 2014

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