



W.P.(MD)Nos.21305, 21331, 21239 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.11.2022**

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.21305, 21331, 21239 of 2014

and

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

W.P.(MD)No.21305 of 2014

Management,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Marudhupathi,
Karaikudi,
represented through its Secretary.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Maduari.

2. Thirumoorthy

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relates to the order passed by the first respondent herein, dated



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10.10.2012 in ID No.4 of 2011 and quash the same.

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W.P.(MD)No.21331 of 2014

Management,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Marudhupathi,
Karaikudi,
represented through its Secretary.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Maduari.

2. E.Ramanathan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relates to the order passed by the first respondent herein, dated 10.10.2012 in ID No.3 of 2011 and quash the same.



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The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Marudhupathi,
Karaikudi,
represented through its Secretary.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Maduari.

2. S.Balasubramanian

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relates to the order passed by the first respondent herein, dated 10.10.2012 in ID No.86 of 2005 and quash the same.

(In all cases)

For Petitioner : Mr.D.Sivaraman

For R1 : Labour Court

For R2 : Mr.P.Natarajan



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ORDER

These writ petitions are filed by the Transport Corporation, challenging the orders of the Labour Court, dated 10.10.2012 in I.D.Nos. 4 of 2011, 3 of 2011 and 86 of 2005.

2. The second respondents were employed as Casual Labourer in the petitioner Corporation on daily wages basis intermittently whenever requirement arises due to exigencies or necessity, particularly in Festival seasons. The second respondents were appointed in a regular sanctioned vacancy by following the method for recruitment and he cannot seek any right or lean over the post. The second respondents have preferred I.D.Nos.4 of 2011, 3 of 2011 and 86 of 2005 to declare the oral termination of the respective second respondent is from 29.09.2000, 17.01.2002 and 18.07.1989 as invalid and prayed for reinstatement of service with continuity of service and backwages. The petitioner Corporation had filed a counter statement and contested the case by stating that the second respondents were engaged on casual basis by



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paying daily wages. The second respondents have not completed 240 days of service in a single year nor 480 days in two years. The contention of the Corporation is that the Labour Court has directed for reinstatement in the same position with continuity of service but without backwages. But has not given any reason to hold that there was a termination of services and there is no supportive findings to its conclusion for reinstatement and continuity of service. Aggrieved over the said order, the petitioner Corporation has preferred this writ petition.

3. The second respondents have filed a typed set of papers and contested the case by stating that the second respondents have completed 240 days and he was engaged daily. The petitioner Corporation orally informed that the second respondents were terminated from service on 29.09.2000, 17.01.2002 and 18.07.1989, but no notice was issued and the second respondents were not granted any work also. Hence, the second respondents have preferred a petition before the first respondent, since the second respondents without any work and orally terminated from service is bad in law. Therefore, the second respondents prayed to



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dismiss this writ petition.

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4. Heard Mr.D.Sivaraman, learned Counsel appearing for the petitioner, Mr.P.Natarajan, learned Counsel appearing for the second respondent and perused the records.

5. It is seen from the impugned order that the Labour Court has directed the petitioner Corporation to reinstate the second respondents into service in his original position with continuity of service, but without backwages. The Labour Court has also stated that the second respondents shall be given preference when the regular selection is made for the post of conductor and driver. The recruitment of Conductor and Driver shall be through Employment Exchange. In the present case, the second respondents were not employed through Employment Exchange and other recruitment conditions were not followed.

6. On perusal of the work register, the second respondents were almost granted work in the petitioner Corporation, though not



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regularly but with some interval where the second respondents were not granted work. The recruitment process in the petitioner Corporation to the post of Driver / Conductor is that the driver / conductor would be engaged on daily wages basis whenever need arises. Then the said daily wages employees would be engaged as temporary employees whenever the permanent vacancy arises. After completion of 240 days of the temporary employment, the said employee would be absorbed in the permanent vacancy. In the present case, vacancy has not arisen. The second respondents shall continue as Casual Labourer in daily wages basis. Thereafter, when the permanent vacancy arises, the second respondents shall grant temporary appointment, thereafter, they shall be permanently absorbed. In short the Corporation shall follow their rules of recruitment. Therefore, the order of the Labour Court is modified to the extent that the second respondents shall be reinstated in casual basis on daily wages payment. As and when the permanent vacancy arises, the second respondents should be absorbed in the permanent vacancy as temporary employee. After completing 240 days, the second respondents should be absorbed permanently.



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7. With the above said modification, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petition are closed.

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Index : Yes / No
Internet : Yes / No
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To

The Presiding Officer,
Labour Court,
Maduari.



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S.SRIMATHY, J

jbr

Order made in
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