



W.P(MD)No.5771 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Orders reserved on
01.09.2022

Orders pronounced on
02.09.2022

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P(MD)No.5771 of 2017

and

W.M.P(MD)No.4595 of 2017

The Management of Cotton Research Station,
Represented by its Professor and Head,
Tamil Nadu Agricultural University,
Srivilliputhur,
Virudhunagar District.

... Petitioner

Vs.

1.The Inspector of Labour and the
Authority under the Tamil Nadu
Industrial Establishments (Conferment
of Permanent Status of Workmen) Act, 1981,
Virudhunagar,
Virudhunagar District.

2.S.K.Samy

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India,
praying to issue a Writ of Certiorari, calling for the records related to
the order in Na.Ka.No.2526 of 2014, dated 31.01.2017 passed by
the first respondent and quash the same.



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For Petitioner : Mr.A.Thirumurthy
For R - 1 : Mr.D.Gandhiraj
Special Government Pleader
For R - 2 : Mr.R.Karunanidhi

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the order in Na.Ka.No.2526 of 2014, dated 31.01.2017 passed by the first respondent.

2. Learned counsel appearing for the petitioner submitted that the petitioner had not worked for 480 days in 24 calendar months. No evidence was produced before the authority. Despite that, the first respondent passed the impugned order directing the conferment of permanent status to the second respondent.

3. In response, learned counsel appearing for the second respondent submitted that the petitioner had served for more than 480 days and therefore, he was rightly ordered to be conferred permanent status.



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4. Considered the rival submissions and perused the records.

5. In similar cases filed by the other workers, there are evidence available to show that they were working under the petitioner for more than 480 days. In fact, they had been working for 25 to 35 years. They also raised an Industrial Dispute and secured an award in favour of them for reinstatement with continuity of service.

6. In the case beforehand, it appears that the second respondent has not produced any material to show that he worked under the petitioner for more than 480 days in 24 calendar months. In fact, the second respondent had raised an Industrial Dispute before the Labour Court, Madurai in I.D.No.46 of 2012 and that petition was dismissed for the reason that the second respondent was not working under the petitioner for 10 years and he had worked only for 96 days from 09.06.2011 to April, 2012. He was appointed as a casual labourer and not proved his claim of working for 480 days in 24 calendar months and therefore the Industrial Dispute raised by the petitioner was dismissed.



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7. As per the case of the petitioner, the second respondent was only a seasonal employee and he was not employed in service from 2002 to 2011. In 2000-2001, he worked for 23 days, in 2001-2002 he worked for 100 - 1/2 days and thereafter he joined as a casual labourer in 2011-2012 and worked for 94 days. During 2012-2013, 2013-2014 and 2014-2015, he worked for 159, 180 and 38 days respectively. Never ever had he worked for 480 days in 24 calendar months. This claim of the petitioner is not refuted or challenged by the second respondent. Therefore, in the absence of any concrete evidence to show that the second respondent worked for 480 days in 24 calendar months, the conferment of permanent status on the second respondent is not correct and in accordance with law.

8. In this view of the matter, the order passed by the first respondent in Na.Ka.No.2526 of 2014, dated 31.01.2017 is set aside and this Writ Petition is allowed.



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9.In the result,

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"This Writ Petition is allowed by setting aside the order passed by the first respondent in Na.Ka.No.2526 of 2014, dated 31.01.2017."

There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

02.09.2022
(1/7)

Internet :Yes
Index :Yes / No
ps

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.



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G.CHANDRASEKHARAN, J.

ps

To

The Inspector of Labour and the
Authority under the Tamil Nadu
Industrial Establishments (Conferment
of Permanent Status of Workmen) Act, 1981,
Virudhunagar,
Virudhunagar District.

Order made in
W.P(MD)No.5771 of 2017

02.09.2022
(1/7)