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W.P.No.27035 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.27035 of 2009

and M.P.No.1 of 2009

Regional Manager,
Tamil Nadu Civil Supplies Corporation Limited,
Pallavan Nagar,
Vandavasi Road,
Kancheepuram.

... Petitioner

vs.

1.State General Secretary
Tamil Nadu Civil Supplies Corporation,
Employees' Union (325/LPF),
No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.

2.The Inspector of Labour,
Kancheepuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent pertaining to the proceedings issued in Na.Ka.No.638/2008 dated 24.08.2009 and quash the same.

For Petitioners : Mr.C.Selvaraj
Standing Counsel for
Tamil Nadu Civil Supplies Corporation

For R1 : Mr.K.Sudalai Kannu



WEB COPY



W.P.No.27035 of 2009

For R2

: Mr.S.John J. Raja Singh
Additional Government Pleader

* * * * *

ORDER

This Writ Petition is filed to call for the records of the 2nd respondent pertaining to the proceedings issued in Na.Ka.No.638/2008 dated 24.08.2009, wherein the Inspector of Labour has directed the petitioner to give permanent status to 29 persons by fixing time scale of pay and further ensure periodical increment on par with any permanent worker as per the service Rules of TNCSC, Chapter-III (Pay and Allowances) and quash the same.

2.The first respondent/Regional Manager, Tamil Nadu Civil Supplies Corporation Limited, Kanchipuram will be referred to as the petitioner and the State General Secretary, Tamil Nadu Civil Supplies Corporation Employees Union will be referred to as the Union.

3.The Union filed a petition under Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act 1981, on behalf of Tmt.T.Suguna and 28 others for conferment of permanent status to them against the petitioner. According to the Union all the 29 workers mentioned in the petition were



W.P.No.27035 of 2009

engaged in the petitioner corporation for many years and all of them had completed 480 days of service in 24 Calendar months as required by the Act. All the workers who were engaged as sweepers in the various godowns of the petitioner, were paid consolidated wages between Rs.150 and Rs.350/-, whereas the permanent workers were paid Rs.2,550/- as basic pay along with other allowances. According to the Union, the nature of work was perennial and all the workers were under the control and direct supervision of the respective godown incharge officials. It was the Union's case that the petitioner did not maintain any attendance register or any other register as mandated under the Labour Laws. The workers were paid through vouchers as per the guidelines of the head office, which amounted to unfair labour practice. As the workers were deprived of their rights the application was filed for permanency from the date they completed 480 days within 24 calendar months under the Tamil Nadu Industrial Establishment (Conferment of permanent status to workmen) Act, 1981 with further prayer to pay them arrears of wages at Rs.2,550/- time scale from the date of their joining along with consequential periodical increments and other alternate benefits.

4.The petitioner filed a counter stating that the provisions of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981



W.P.No.27035 of 2009

was not applicable to the petitioner Corporation. It was stated that the Tamil Nadu

Civil Supplies Corporation is an undertaking of the Government of Tamil Nadu for distributing the essential commodities to the consuming public at subsidized rates fixed by the Government. The petitioner Corporation has various godowns in different Taluks where the food grains are stored and sent to the Ration shops for distribution to the public. It is stated that the nature of the work of the sweepers in godowns was not perennial in nature as it was subject to the receipt of stocks in the godowns. The petitioner further stated that in the absence of sanctioned posts and budgetary allocation for regularizing the sweepers they could not be conferred with permanency. On the aforesaid grounds the petitioner prayed for rejection of the application.

5.The Inspector of Labour (2nd respondent) on consideration of the entire materials placed before him framed three questions which are as follows:

- 1.Is the petitioner a “Workman” as per the Act?
- 2.Does the TNIE (Conferment of Permanent Status) Act 1981 apply to the respondent organization?
- 3.To what relief the petitioner is entitled to?

6.The first issue was answered in favour of the workers on the ground that the petitioner did not dispute the engagement of the sweepers in the godowns. The second



W.P.No.27035 of 2009

issue was also found in favour of the Union. On the third issue the Inspector of Labour held that as the workers put in more than 480 days work in 24 calendar months, they were entitled to the relief claimed in the petition. Aggrieved by the order passed by the Inspector of Labour the petitioner filed the above writ petition.

7.The learned counsel appearing for the petitioner submitted that the second respondent failed to note that the workers could not claim permanency under Section 1(3) of the Conferment of Permanent Status Act, 1981, in as much as the nature of the work was intermittent and not permanent. The learned counsel further submitted that the Union had no locus to file the application on behalf of the workers. The learned counsel submitted that as there were no sanctioned post of sweepers in the godowns and in the absence of budgetary sanction for the same, the Inspector of Labour ought to have rejected the claim.

8.The learned counsel for the respondent's on the other hand submitted that the Inspector of Labour considered the entire matter in detail on the basis of the materials placed before it and therefore, the impugned order does not call for any interference. The learned counsel further submitted that as the petitioner admitted in it's communication dated 27.04.2006 addressed to the Managing Director, that all the workers completed 480 days of continuous service in a period of 24 calendar months



W.P.No.27035 of 2009

Managing Director, the Inspector of Labour was justified in holding that the 29 workers were entitled to permanency.

9.I have heard the learned counsels and have perused the materials placed on record.

10.The short point for consideration is whether the workers are entitled for conferment of permanency under Act of 1981. It is not disputed by the petitioner that 29 workers were engaged as sweepers in various godowns of petitioner Corporation. It is further not disputed that they were paid consolidated wages ranging between Rs.150/- and Rs.350/-. According to the 29 workers they had completed 480 days of service within a period of 24 calendar months as required by the Act and therefore they were entitled to conferment of permanency.

11.On the other hand it is the case of the petitioner that the 29 workers were not entitled to conferment of permanent status because the nature of their work was intermittent and not permanent, that they were not appointed against sanctioned posts and no budgetary allocation was made for the said post. The Union relied on the letter addressed by the petitioner dated 27.04.2006 to the Managing Director, wherein it was clearly stated that each of the persons referred to therein had completed 480 days



W.P.No.27035 of 2009

within a continuous period of 24 calendar months in support of its case. The said letter was produced by the Union.

12.The petitioner's contention that the work of the 29 sweepers was not permanent but intermittent only is belied by its own counter wherein it is clearly stated that the working hours of the workers was from 09.30 a.m. to 05.30 p.m. The Inspector of Labour on the basis of the counter filed by the petitioner factually found that the nature of work was permanent. As regards want of sanctioned posts and budgetary allocation, the Inspector of Labour held that it had no relevance to the conferment of Permanent status under the Act. The Inspector of Labour noting that the petitioner failed to maintain the records as per Labour Laws held that extraction of work from the sweepers without valid records amounted to unfair labour practise. The Inspector of Labour thereafter relying on the petitioner's own letter dated 27.04.2006 addressed to Managing Director, wherein it was clearly stated that the 29 sweepers had completed 480 days in 29 calendar months, concluded that the 29 sweepers were entitled to conferment of permanent status under the Act.

13.In the light of the factual findings of the Inspector of Labour and also in view of the failure of the petitioner to file documentary evidence in support of its case, I find



W.P.No.27035 of 2009

no reason to interfere with Inspector of Labour's Award. Further as the petitioner admitted in its letter dated 27.04.2006 that the 29 sweepers completed 480 days of continuous work in 24 calendar months, I am of the view that the petitioner cannot take a different stand now. The letter is assailed on the ground that it was addressed for the purpose of regularisation and not permanency, whatever may have been the reason, the fact remains that the petitioner has admitted that all the 29 sweepers completed 480 days in 24 calendar months and so conferment of permanency to them cannot be denied.

14.In this regard the Judgment dated 23.01.2023 of the Hon'ble Division Bench of this Court in W.A.No.150 of 2023 on similar facts and with respect to the same department squarely applies to the facts of the case. The Hon'ble Division Bench in paragraph No.10 held as follows:

“10.That apart, these employees have been working for years together and continuing them without conferring permanent status, is an unfair labour practice in terms of Clause 10 of the Schedule V to the Industrial Disputes Act.”

15.At this stage the learned counsel for the petitioner submitted the list of 29

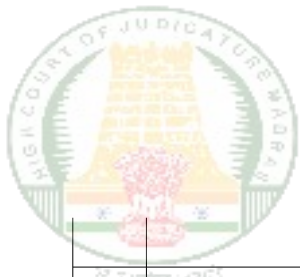


W.P.No.27035 of 2009

workers and stated that some of the workers abandoned work and some of them superannuated. The learned counsel therefore submitted that the same may be considered and suitable orders may be passed. The list submitted by the petitioner is as follows:

TAMIL NADU CIVIL SUPPLIES CORPORATION
KANCHIPURAM REGION

Sl. No.	Name TVL.	Father / Husband Name	Date of Birth / Age	Godown Name	Remarks
1	D.Suguna	Dhanasekar	02.06.1968	Sirukaverippakkam	At Present Working as Casual Labour
2	S.Kasthuri	Sheik Alavudin	03.04.1969	Sirukaverippakkam	Stayed Away / Abandon From Work (15 years)
3	M.Seetha	Manickam	15.04.1963	Sirukaverippakkam	Individual did not come to work due to superannuation (From June 2022)
4	A.Kuppan	Annamalai	15.01.1975	Sirukaverippakkam	At Present Working as Casual Labour
5	V.Sekar	Varadan	12.04.1976	Sirukaverippakkam	At Present Working as Casual Labour
6	A.Saroja	Natesan	15.07.1949	Sirukaverippakkam	Stayed away / Abandon From work
7	T.Muthu	Thenan	43	Vedapalayam	At Present Working as Casual Labour
8	V.Swaminathan	Vadivel	15.10.1967	Vedapalayam	Expired (27.12.2022)
9	Perumal	Chinnapayan	2.10.1967	Vedapalayam	At Present Working as Casual Labour
10	Thenmozhi	V.Saminathan	32	Vedapalayam	At Present Working as Casual Labour
11	A.Ganasekar	Arasappan	14.09.1972	Sriperumpudhur	At Present Working as Casual Labour
12	D.Senthamarai	Devendran	20.01.1963	Sriperumpudhur	Stayed Away / Abandon from work
13	O.Kanniyappan	Osuran	01.11.1970	Chengalpattu	At Present Working as Casual



W.P.No.27035 of 2009

					Labour
14	S.Chandra	Dharmalingam	56 year	Chengalpattu	Individual did not come to work due to superannuation
15	K.Sundari	Kaliyappan	55 year	Chengalpattu	Individual did not come to work due to superannuation
16	S.Susila	Subramani	10.02.1961	Chengalpattu	Stayed Away / Abandon from work

Sl. No.	Name TVL.	Father / Husband Name	Date of Birth / Age	Godown Name	Remarks
17	D.Kiliyammal	Duraikannu	56 year	Chengalpattu	Individual did not come to work due to superannuation
18	K.Kamala	Kutti	49 year	MRM Thimmavaram	Stayed Away / Abandon from work
19	G.Vethagiri	Ganapathy	7.11.1961	Thirukazhukundram	At Present Working as Casual Labour
20	J.Thennarasu		2.02.1969	Thirukazhukundram	At Present Working as Casual Labour
21	Lakshmi	Elumalai	08.07.1956	Thirukazhukundram	Individual did not come to work due to superannuation
22	M.Poovathal	Murugesan Naiker	04.03.1969	Madhurandhagam	At Present Working as Casual Labour
23	V.Suseela	Venkatesan	44 year	MRM Thimmavaram	Stayed Away / Abandon From Work
24	R.Meenakshi	Rayappan	43 year	MRM Thimmavaram	Individual did not come to work due to superannuation
25	S.Anna Pooran	Subramani	40 year	MRM Thimmavaram	At Present Working as Casual Labour
26	S.Veeraragu	Samu	03.02.1972	MRM Thimmavaram	Expired
27	M.Meenachi	Mari	43 year	V.V.Nallur	Stayed Away / Abandon From Work
28	Dhanalaksumi	Kothandaraman	45 year	V.V.Nallur	Stayed Away / Abandon From Work
29	E.Kupan	Ellan	43 year	V.V.Nallur	Stayed Away / Abandon From Work



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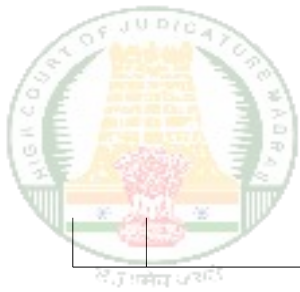


W.P.No.27035 of 2009

16.It is seen from the list that 17 workers either expired, superannuated or abandoned work. The following 12 workers are at present working.

TAMIL NADU CIVIL SUPPLIES CORPORATION
KANCHIPURAM REGION

Sl. No.	Name TVL.	Father / Husband Name	Date of Birth / Age	Godown Name	Remarks
1	D.Suguna	Dhanasekar	02.06.1968	Sirukaverippakkam	At Present Working as Casual Labour
2	A.Kuppan	Annamalai	15.01.1975	Sirukaverippakkam	At Present Working as Casual Labour
3	V.Sekar	Varadan	12.04.1976	Sirukaverippakkam	At Present Working as Casual Labour
4	T.Muthu	Thenan	43	Vedapalayam	At Present Working as Casual Labour
5	Perumal	Chinnapayan	2.10.1967	Vedapalayam	At Present Working as Casual Labour
6	Thenmozhi	V.Saminathan	32	Vedapalayam	At Present Working as Casual Labour
7	A.Ganasekar	Arasappan	14.09.1972	Sriperumpudhur	At Present Working as Casual Labour
8	O.Kanniyappan	Osuran	01.11.1970	Chengalpattu	At Present Working as Casual Labour
9	G.Vethagiri	Ganapathy	7.11.1961	Thirukazhukundram	At Present Working as Casual Labour
10	J.Thennarasu		2.02.1969	Thirukazhukundram	At Present Working as Casual Labour
11	M.Poovathal	Murugesan Naiker	04.03.1969	Madhurandhagam	At Present Working as Casual Labour
12	S.Anna Pooran	Subramani	40 year	MRM Thimmavaram	At Present Working as Casual



W.P.No.27035 of 2009

Labour

WEB COPY

17. In the aforesaid Division Bench judgment similar plea was taken and the Hon'ble Division Bench passed orders considering the subsequent development. Following the Hon'ble Division Bench Judgment it is ordered that insofar as the persons who expired during the pendency of the proceedings, their legal heirs would be entitled to the monetary benefits up to the date of the death of the deceased employees.

18. Insofar as other employees who have not reported for work and attained permanent status, are concerned, it is open to them to raise appropriate industrial dispute, if so advised and if, any such dispute is raised, it is open to the appropriate Court to adjudicate the same on merits including the question of delay / limitation. It is made clear that this order shall not be construed as giving liberty to the workers to raise dispute so as to condone the delay. The order of the Authority insofar as the workers who have died and the above listed 12 workers are concerned, shall be implemented within four months from the date of receipt of a copy of this order.

19. With the above observations/directions, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the miscellaneous petition is closed.

20.11.2023

Index : Yes / No



W.P.No.27035 of 2009

Internet : Yes / No

Speaking Order/Non-speaking order

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To

- 1.State General Secretary
Tamil Nadu Civil Supplies Corporation,
Employees' Union (325/LPF),
No.12, Thambusamy Road,
Kilpauk, Chennai – 600 010.
- 2.The Inspector of Labour,
Kancheepuram.
- 3.The Regional Manager,
Tamil Nadu Civil Supplies Corporation Limited,
Pallavan Nagar,
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WEB COPY



W.P.No.27035 of 2009

N.MALA, J.

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W.P.No.27035 of 2009



WEB COPY



W.P.No.27035 of 2009

20.11.2023