



WEB COPY



W.P.No.2430 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.2430 of 2012

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
Chennai-600 010.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Ootacamund.

... Petitioners

-Vs-

1. R.Nalini
2. Amaravathi
3. Jeyalakshmi
4. Valliammal
5. The Inspector of Labour,
Coonoor.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records relating to the award made in Na.Ka.No.E 861 of 2008 dated 15.02.2010 on the file of the 5th respondent and quash the same.

For Petitioners	: Mr.C.Selvaraj
For R1 to R4	: M/s M.Karthikeyani
For R5	: Mr.L.S.M.Hasan Fizal
	Additional Government Pleader



W.P.No.2430 of 2012

ORDER

This writ petition has been filed challenging the award made in Na.Ka.No.E 861 of 2008 dated 15.02.2010 on the file of the 5th respondent, thereby directed the petitioner to given permanent status to respondents 1 to 4 herein.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The respondents 1 to 4 filed an application to confirm their job as permanent before the fifth respondent herein. The fifth respondent considered their claim and directed the petitioners to confirm their employment as permanent one.

4. The learned counsel for the petitioners submitted that the respondents 1 to 4 herein were not employed through employment exchange and they were engaged only for seasonal requirement. Whenever there is any loading and unloading work, collection of spilled food grains in the godown, they were engaged for that purposes. Further, the respondents 1 to 4 herein failed to prove that they had worked for continuous period of 480 days within a continuous



W.P.No.2430 of 2012

period of 24 calendar months. In fact, they are not eligible to be regularized under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981, since they are not workers as defined under Section 2(4) of the said Act.

5. The Act applies to every industrial establishment (not being an establishment) of seasonal character or in which work is performed only intermittently) in which not less than fifty workmen were employed on any day of the preceding twelve months. Therefore, they are not eligible for any permanent status as claimed by them.

6. The order passed by the fifth respondent is directly against the case reported in **2006 (4) SCC 1** in the case of ***State of Karnataka Vs Umadevi and others***, whereby the Hon'ble Supreme Court of India held that the back door entry in public employment and those employees are not entitled for any relief.

7. The Hon'ble Division Bench of this Court held in a similarly placed matter in ***W.A.No.150 of 2023 dated 23.01.2023***, wherein held that the Umadevi's case is not applicable to the case on hand, since the employees therein have directly approached this Court without going before the industrial



W.P.No.2430 of 2012

forum. That apart, the provisions of the Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 have not been considered.

8. In the case on hand, the respondents 1 to 4 had approached the Authority seeking permanent status and decision has been rendered by the Authority based on evidence let in by the parties. That apart, the respondents 1 to 4 herein 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 of the Industrial Disputes Act. The respondents 1 to 4 are still working and they are receiving wages as fixed by the District Collector.

9. In view of the above, this Court finds no infirmity or illegality in the order passed by the fifth respondent in Na.Ka.No.E 861 of 2008 dated 15.02.2010 and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

05.09.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
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W.P.No.2430 of 2012

G.K.ILANTHIRAIYAN, J.

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To

The Inspector of Labour,
Coonoor.

W.P.No.2430 of 2012

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