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W.P.Nos.25398 & 31992 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.25398 & 31992 of 2016

K.Madhappan ...Petitioner in W.P.No.25398 of 2016

T.Thangaraj ...Petitioner in W.P.No.31992 of 2016

Vs

1. The General Manager,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Dharmapuri Region,
Bharathipuram, Dharmapuri-5.
2. The Presiding Officer,
Labour Court, Salem.
3. The Employment Officer,
District Employment Office,
Dharmapuri District. ...Respondents in both W.P's.

(R3 impleaded vide order dated 18.04.2023 made in WMP.Nos. 38580 & 38578 of 2018 respectively.)

Prayer in W.P.No.25398 of 2016: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 26.08.2015 and made in I.D.No.58 of 2013 and quash the same and direct the 1st respondent to reinstate the petitioner with all attendant benefits.



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Prayer in W.P.No.31992 of 2016: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 26.08.2015 and made in I.D.No.200 of 2010, quash the same and direct the 1st respondent to reinstate the petitioner with all attendant benefits.

In both W.P's.:

For Petitioner : Mr.V.Selvam

For Respondents : Mr.R.Babu

COMMON ORDER

Since the issue involved in both the Writ petitions are similar in nature, they are disposed of by way of this common order.

2. These Writ petitions are filed by the respective petitioner seeking quashment of the orders of the 2nd respondent both dated 26.8.2015 made in I.D.Nos.58 of 2013 & 200 of 2010 respectively and to consequently direct the 1st respondent to reinstate the petitioners with all attendant benefits.

3. The case of the petitioners is that, the petitioners were appointed in the 1st respondent corporation as conductors on daily wage basis by proceedings dated 20.09.2007 and 31.07.2007 respectively. While so, when



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the petitioners went to the depot on 15.8.2008, they were denied employment, without any specific reason. Therefore, the petitioners filed two separate writ petitions in W.P.Nos.29192 & 29195 of 2008 to direct the Managing Director, Tamil Nadu State Transport Corporation (Salem) Limited to consider their representations dated 01.09.2008 and 02.09.2008 respectively and this Court, vide order dated 11.12.2008, directed the 2nd respondent therein to consider their representations, pursuant to which, the 1st respondent, by proceedings dated 27.03.2009, rejected the petitioners' respective representations, on the ground that their appointment was illegal and that there was no need to conduct any enquiry. Challenging the same, the petitioners raised two separate industrial disputes in I.D.Nos.58 of 2013 & 200 of 2010, before the 2nd respondent, which were dismissed vide present impugned orders. Challenging the same, the petitioners are before this Court.

4. Learned counsel for the petitioners submitted that, though there was an allegation as against the petitioners that, by influencing the corporation officials, they have obtained the interview card, however, no



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disciplinary proceedings have been initiated as against the said erred officials. Further, the 1st respondent, without conducting proper enquiry by affording appropriate opportunity to the petitioners, removed them from service, which is not sustainable and the same is a clear violation of principles of natural justice and on the sole ground, the present impugned orders are liable to be set aside. Accordingly, he prayed for appropriate orders.

5. Learned counsel for the respondents submitted that, pursuant to the communication from the District Employment Officer, Dharmapuri dated 11.7.2008 , seeking to send a copy of the sponsored list in respect of one Mr.S.Murugan and Mr.M.Shankar, as their names were found not sponsored by the Employment Exchange, it was found that a few persons, including the petitioners herein, who were not sponsored by the Employment Exchange, were given appointment in the 1st respondent corporation. On knowing the same, the appointment of the petitioners was cancelled, as the same is illegal and in connivance with the officials of the 1st respondent corporation, the petitioners got illegal appointment. Further, there was no



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employer-employee relationship between the 1st respondent and the petitioners and they have no right to raise the industrial disputes and therefore, the 2nd respondent rightly dismissed the industrial disputes raised by the petitioners, vide present impugned orders and the same does not warrants interference of this Court. He further more submitted that, the erred officials, who were involved in the illegal appointment were also dismissed from service. Accordingly, he prayed for dismissal of these Writ petitions.

6. Heard the learned counsel on either side and perused the material documents placed on record.

7. Admittedly, the petitioners were appointed as conductors in the 1st respondent corporation in the year 2007. However, the major allegation made as against the petitioners herein is that, several persons including the petitioners herein, by colluding with some of the officials of the 1st respondent corporation, had fraudulently obtained interview cards and have subsequently, got appointed in the 1st respondent corporation, contrary to the Employment seniority and out of 19 persons, 15 persons who have



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secured job in the 1st respondent corporation in an illegal manner. The labour court, after elaborately considering all the above said facts, dismissed the disputes raised by the respective petitioners, as no documentary evidence was submitted by the petitioners before the labour court, in order to substantiate their claim.

8. When the petitioners have obtained the appointment through illegal means and in an unclean manner, it is not open to the petitioners to seek for any indulgence to have an enquiry conducted, as the illegality cannot be cured by the conduct of the enquiry. Further, when it is not the case of the petitioner that they have not committed any illegality as claimed by the Management, the mere conduct of enquiry would be nothing but an empty formality and, therefore, the non-conduct of enquiry would not vitiate the order of dismissal. Hence, in the absence of any material evidence to show that the appointment was not secured illegally and without violating the employment seniority, the Labour court, had rightly dismissed the disputes, and thereby this court is not inclined to interfere with the impugned awards.



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9. For the reasons aforesaid, these Writ petitions stand dismissed. No

costs.

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

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Tamil Nadu State Transport Corporation (Salem) Ltd.,
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M.DHANDAPANI., J.

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