



W.P.Nos.33415, 33416, 33417 and 33418 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.33415, 33416, 33417 and 33418 of 2016

and

**W.M.P.Nos.28845, 28846, 28847, 28848, 28849, 28850 & 28851 of 2016
and W.M.P.Nos.7225, 7226, 7227, 7228, 7229, 7230, 7231 & 7232 of 2017**

The Management of
Tamil Nadu State Transport Corporation
(Covai) Ltd., Erode Region,
Chennimalai Road, Erode - 1.

... Petitioner in all W.Ps.

Vs.

1. The Presiding Officer,
Labour Court, Salem.

... R1 in all W.Ps.

2. S.Rajendran
S/o.Chempan

... R2 in W.P.No.33415 of 2016

3. R.Murugasamy
S/o.Rangan

... R2 in W.P.No.33416 of 2016

4. R.Rangan
S/o.P.Raman

... R2 in W.P.No.33417 of 2016

5. K.P.Shanmugam
S/o.Perumal

... R2 in W.P.No.33418 of 2016



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COMMON PRAYER : Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the first respondent Labour Court, Salem, in I.D.Nos.77, 78, 79 and 80 of 2010, dated 09.03.2015 and quash the same.

For Petitioner
in all W.Ps : Mr.M.Murali Vinodh

For Respondents
in all W.Ps : R1 - Labour Court
Mr.K.V.Shanmuganathan for R2

C O M M O N O R D E R

Since the issue raised in all these Writ Petitions is one and the same, with the consent of the learned counsel appearing for both sides, all these Writ Petitions have been heard together and are disposed of by this common order.

2. The petitioner is the Management of Tamil Nadu State Transport Corporation. The second respondent in each of the Writ Petitions have raised respective I.D.Nos.77, 78, 79 and 80 of 2010 seeking to appoint them in the petitioner Corporation as Tout Boys (Ticket Canvasser) with continuity of service and to pay a sum of Rs.50,000/- as backwages to each



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of the workman and all other attendant benefits. Challenging the same, the present Writ Petitions are filed.

3. The learned counsel appearing for the petitioner Corporation submits that though it was a claim of the respondent / workmen that they were engaged as Tout Boys (Ticket Canvasser) in the petitioner Corporation and they were terminated from services. The learned counsel for the petitioner Corporation refuted the said contentions given before the Labour Court, a detailed counter affidavit was filed before the Labour Court denying the employment of the respondent / workmen and that there was no employer-employee relationship between the petitioner Corporation and respondent / workmen. The learned counsel for the petitioner Corporation, placing reliance upon the judgment of the Hon'ble Supreme Court in the case of *State of Karnataka and others vs. Umadevi and others* reported in **2006 4 SCC 1**, and submitted that "those who were entered by back door entry, should go through that door and that cannot be given permanency to an employee services are adhoc in nature". But, in the present case, the



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respondent / workmen was not at all engaged for any duty by the petitioner Corporation and hence, the Labour Court ought not to have ordered for reinstatement as well as backwages.

4. The learned counsel for the respondent / workmen submitted that on behalf of the workmen even before the Labour Court as many as twenty documents were submitted as exhibits and evidences were let in to substantiate that they were employed by the petitioner Corporation. Before the Labour Court, the attendance sheet and the payment of vouchers were also produced. Hence, considering the documents submitted by the respondent / workmen, the Labour Court had rightly ordered for reinstatement and backwages. Therefore, the learned counsel for the respondent / workmen seeks for dismissal of these Writ Petitions.

5. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.



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6. The issue involved in these Writ Petitions is squarely covered by the decision of this Court in the case of ***R.Kumaravel vs. Tamil Nadu State Transport Corporation and others*** in ***W.P.No.8746 of 1999***, wherein this Court has held as under:

"21. In the present case also, the first respondent-Transport Corporation had merely stated that the writ petitioner was a "canvasser" a self-employed person and no relationship of employer and employee existed at any point of them. It was also established that the writ-petitioner had not been posted nor he had been working as a time-keeper and his claim in this respect had also been negatived by the Labour Court.

22. On the findings, the Labour Court rightly held that the writ-petitioner, is "a ticket canvasser" and he is not a workman and there existed no relationship of employer and employee. In that view it has been further held that the writ-petitioner is not entitled to any relief, much less reinstatement.

23. The decision relied upon by the learned counsel for the writ-petition in W.P.No.8494 of 1984 (supra), has to be confined to the facts of the said case and has no application to the facts of the present case. As already pointed out the petitioner had miserably failed to establish that he is a "workman" and that there existed the relationship of employer and employee and therefore, the Labour Court rightly held that the claimant is not entitled to any relief.

24. In this writ petition, this Court holds that no interference is called for with respect to the findings



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recorded by the Labour Court. This Court will not be justified in interfering with the findings recorded by the Labour Court in the absence of any perversity or illegality or misdirections.

25. In the circumstances the writ petition fails and it is dismissed, but without costs. Consequently, the connected writ miscellaneous petition is also dismissed."

7. In the said judgment, this Court has already held that the workman-petitioner therein had failed to establish that he is a "workman" and that there existed the relationship of employer and employee and therefore, the Labour Court rightly held that the claimant is not entitled to any relief. Accordingly, following the said judgment, the respondent / workmen was though engaged as Ticket Canvasser by the petitioner Corporation, considering the facts and circumstances of the case and the materials placed before this Court, this Court is of the view that the respondent / workmen were not employed by the petitioner Corporation on permanent basis and there existed no employer-employee relationship between the petitioner Corporation and the respondent / workmen as contemplated under Section 2(s) of the Industrial Disputes Act, 1947.



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8. Accordingly, these Writ Petitions are allowed and the impugned award passed by the first respondent in I.D.Nos.77, 78, 79 and 80 of 2010, dated 09.03.2015 is set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.08.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

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