



W.P.Nos.35414 and 41989 of 2016

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 13.07.2023**

**CORAM**

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

**W.P.Nos.35414 and 41989 of 2016**

**and**

**W.M.P.No.35935 of 2016**

W.P.No.35414 of 2016:

S.Muthumallappa

... Petitioner

Vs.

1. The Administrative Director,  
Tamil Nadu Government Transport Corporation  
Coimbatore Division - II, Erode Zone,  
Sennimalai Road,  
Erode District - 9.

2. The Labour Inspector,  
Erode District.

... Respondents

**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to implement the order dated 11.02.2016 made in Na.Ka.No.A/3472/2014 on the file of the second respondent.



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For Petitioner : Mr.Jai Kumaran  
for M/s.T.Tennwalter Associates

For Respondents : Mr.M.Murali Vinoth  
Standing Counsel for R1  
Mr.M.Prem Kumar  
Government Advocate for R2

W.P.No.41989 of 2016:

The Managing Director,  
Tamil Nadu State Transport Corporation,  
(CBE) Limited,  
Erode Region,  
Chennimalai Road,  
Erode - 01.

... Petitioner

Vs.

1. The Inspector of Labour,  
Authority under Tamil Nadu Industrial  
Establishments (Conferment of Permanent Status  
to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981),  
Erode.

2. S.Muthumallappa

... Respondents

**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for records of the order passed by the first respondent in Na.Ka.No.A/34372/2014 dated 11.02.2016 and to quash the same as illegal.



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For Petitioner : Mr.M.Murali Vinoth  
Standing Counsel for R1  
For Respondents : Mr.M.Prem Kumar  
Government Advocate for R1  
Mr.Jai Kumaran  
for M/s.T.Tennwalter Associates- R2

### **COMMON ORDER**

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

2. W.P.No.35414 of 2016 is filed by the employee to implement the order dated 11.02.2016 made by the second respondent / Inspector of Labour, Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

3. W.P.No.41989 of 2016 is filed by the employer / Tamil Nadu State Transport Corporation challenging the same order dated 11.02.2016.



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4. For convenience, the parties are referred to employer and employee irrespective of ranking in the respective Writ Petitions.

5. The brief facts of the case lead to filing of these Writ Petitions is that the employee was appointed as daily wage Driver on sponsorship from the respective Employment Exchange on 24.04.2013. On completion of three years of service, the employee claimed permanency as per the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, by filing an application on the ground that the employee did not possess Tamil as qualifying language. Further he has not completed the test conducted by the Government in this regard which enables him to complete the examination within four years from the date of joining. However, the Competent Authority rejecting the contention of the employer and passed an order directing regularisation of the employee on completion of 480 days of service from the date of initial appointment. Challenging the same, the employer is before this Court by way of W.P.No.41989 of 2016.



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6. However the employee is before this Court by filing W.P.No.35414 of 2016 seeking the implementation of the order passed by the competent Authority.

7. On perusal of the order passed by the Competent Authority, it is seen that, the Competent Authority has failed to taken into consideration the amendment that was brought about by the State of Tamil Nadu in the Service Conditions of the incumbents and that any conditions imposed by the Management in a form of provisions of such Common Service Rules carries legislative competence. Certain essential qualification and completion of test and examination cannot be dispensed with as it forms part of the Common Service Rules. Failure to complete the exam in a regional language as stipulated by the employer at the time of employment would dis-entitle the continuance of the employment. Even the provision of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981 also points the term 'satisfactory completion of service'. In the case on hand, the satisfactory completion of service includes the passing of Tamil language as



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one of the conditions set out in the appointment order. It is true that the employer should have taken appropriate care even while appointing the employee as in the present case in hand the employee has studied upto 8th Standard in kannada language. Hence, the employer should have rejected the candidature even before appointing him. However, since the employee was appointed on condition to pass the qualifying examination in Tamil language within a period of four years from the date of employment, the employee has to abide by the conditions laid down in the appointment order and should have passed the examination as stipulated. However, the second respondent has failed to do so. Accordingly, the order passed by the Inspector of Labour / Competent Authority dated 11.02.2016 is set aside and W.P.No.41989 of 2016 filed by the Management is allowed.

8. The employee / petitioner in W.P.No.35414 of 2016 is directed to pass the language test in Tamil as stipulated by the employer by appearing in the language test being conducted by the Tamil Nadu Public Service Commission in the next ensuing examination and thereafter, the employer



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shall consider conferring permanent status on the employee. Accordingly, W.P.No.35414 of 2016 is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

**13.07.2023**

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

vji

To

1. The Administrative Director,  
Tamil Nadu Government Transport Corporation  
Coimbatore Division - II, Erode Zone,  
Sennimalai Road,  
Erode District - 9.
2. The Inspector of Labour,  
Authority under Tamil Nadu Industrial  
Establishments (Conferment of Permanent Status  
to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981),  
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**M.DHANDAPANI, J.**

vji

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and  
W.M.P.No.35935 of 2016**

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