



WP.No.41282 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2023

Coram :

THE HONOURABLE MR.M.DHANDAPANI

W.P No.41282 of 2016
& W.M.P.No.35249 of 2016

1.The Managing Director,
Tamil Nadu Civil Supplies
Corporation Ltd.,
Head Office, No.12,
Thambusamy Road,
Kilpauk, Chennai-10.

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

...Petitioners

Vs

1.State General Secretary,
Tamil Nadu Civil Supplies
Corporation Employees
Union, No.12/42,
Thambusamy Road,
Kilpauk, Chennai-10.

2.Mr.Thanjammal
3.S.Dhanammal
4.M.Malliga

1/10



WP.No.41282 of 2016

- 5.L.Pitchandi
- 6.G.Chandra
- 7.P.Velankanni
- 8.N.Janaki
- 9.A.Vellai
- 10.G.Babu
- 11.G.Lakshmi
- 12.K.Vasantha
- 13.S.Rajeswari
- 14.S.Susila
- 15.R.Kuppammal
- 16.E.Munirathnam
- 17.D.Shanthi
- 18.S.Samundi

19.The Inspector of Labour,
Vellore.

...Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order made in Na.Ka.No.E/3356/2014 dated 11.1.2016 on the file of the 19th respondent/Inspector of Labour, Vellore and quash the same.

For Petitioners : Mr.C.Selvaraj

For Respondents

1 to 8, 10 to 12 &

14 to 18 : Mr.Gautam S.Raman

For Respondent-19: Mr.M.S.Premkumar,
Government Advocate

For Respondent-13: No appearance

Respondent-9 : died



WP.No.41282 of 2016

ORDER

This is a petition filed by the petitioners seeking to quash the order dated 11.01.2016 passed by the 19th respondent.

2. The facts leading to filing of this writ petition are stated as follows :

(i) The first respondent filed an application under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 before the 19th respondent for and on behalf of 24 workers seeking to provide them permanent employment. This application was allowed by the impugned order only for 17 workmen and the claim with regard to the other 7 workmen were rejected. Challenging that portion of the order allowing the claims of 17 workmen namely respondents 2 to 18, the petitioners management are before this Court.

3. When the matter came up for admission on 24.11.2016, this Court granted an order of interim stay as prayed for in WMP.No.35249 of 2016.

3/10



WP.No.41282 of 2016

WEB COPY

4. The 19th respondent filed a counter contending that the petitioners had not disputed the claims of respondents 2 to 18 at the time of hearing the application filed by the first respondent and that based on the documents available, the application was allowed in so far as respondents 2 to 18 were concerned.

5. Learned counsel for the petitioners submits that respondents 2 to 18 are claiming to be the employees of the petitioner Corporation, but they were engaged only as daily wage workers and that there was no employer-employee relationship between the petitioner corporation and the respondents/workmen. In the absence of employer-employee relationship, the question of regularization will not arise. Hence, the award passed by the Labour Court is liable to be set aside.

6. Per Contra, learned counsel for the Respondents/Workmen submits that though the workmen have completed 480 days of continuous service in 24 calendar months in the petitioner corporation, their services



WP.No.41282 of 2016

WEB COPY

were not regularized and on the sole ground the dispute was raised seeking permanency. The Labour Court having elaborately discussed the factual aspects and also taking into consideration the documents marked on behalf of the management as well as the workmen, has rightly come to a conclusion that the workmen are entitled for regularization. Hence, there is no infirmity in the Award passed by the Labour Court. Accordingly, he prayed for dismissal of this Writ Petition. He further submitted that, earlier, a similar issue came up before this Court as against the Petitioner Corporation in W.P.No.32234 of 2012, wherein this Court had granted the relief of regularization to the similarly situated persons which relief may be extended to the workmen herein as well.

7. Heard the learned counsel for the petitioners, learned counsel appearing for respondents 1 to 8, 10 to 12 and 14 to 18 and learned Government Advocate appearing for the 19th respondent.

8. It is the case of respondents 2 to 18/workmen that they are contractual employees of the petitioner corporation and that they have



WP.No.41282 of 2016

WEB COPY

completed 480 days of continuous service in a period of 24 calendar months in the petitioner management. However, it is the claim of the petitioner corporation that there was no employer-employee relationship between the petitioner and the workmen and hence the workmen are not entitled for regularization of service. The dispute has been raised solely on the ground that the workmen have completed 480 days of continuous employment in the petitioner corporation.

9. Though the aforesaid contention and counter contention has been raised, however, the issue involved in the present case is no longer *res integra* as similar issue has already been decided by this Court in Writ Petition No.32234 of 2012 wherein, this Court has held as under:-

“5.Having regard to the rival submissions made this Court called for the records from the seventh respondent so as to examine whether the relief grante to the 1st respondents in the impugned order is supported by the evidence lead by the parties. In furtherance into, Learned Government counsel appearing for the 7th respondent has produced the records from which it has been noticed that the Chariman and Managing Director of the Petitioners by Letter No.r.C.ALB4/13507/2005 dated 12.01.2007 has recommended to the Specila Secretary to the Government of Tamil Nadu, Co-



WEB COPY



WP.No.41282 of 2016

operation, Food & Consumer Protection Department for the regularization of services of the First to Sixth Respondents as they had rendered more than two years of service satisfying the requirement of completing the continuous service of 480 days in a period of 24 calendar months for extending the benefit under the Permanent Status Act.

*6.The natural consequence that flows from the conferment of permanent status by operation of the Permanent Status Act is that the payment of wages of the amount equivalent to that of a regular employee has to be extended and in this context, it would be useful to refer to the decision of the Hon'ble Supreme Court of India in **State of Punjab -vs - Jagjit Singh** [(2017) 1 SCC 148], where it has been observed as follows:-*

“58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a Welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situated constitutes an act of exploitative enslavement, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”



WP.No.41282 of 2016

In that view of the matter, the impugned order in C.P.S. Case. No.2676 of 2008 dated 16.4.2012 passed by the seventh Respondent is confirmed.

10. From the aforesaid decision of this Court, it is clear that if the employees have satisfied the requirement of completing 480 days of continuous employment in the 24 calender months as mandated under the Permanent Status Act, they are entitled for claiming regularization of their services.

11. In the present case, since, the respondents 2 to 18/workmen have rendered 480 days of continuous service in a period of 24 calendar months in the petitioner corporation they come within the purview of Permanent Status Act for grant of permanency. Hence, this Court is of the view that there is no infirmity with the findings rendered by authority with regard to entitlement of permanency in favour of the workmen and therefore, the order impugned in this Writ Petition cannot be interfered with.



WEB COPY



WP.No.41282 of 2016

12. For the reasons aforesaid, the Writ Petition filed by the petitioner corporation stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

27.07.2023

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

NHS

To
The Inspector of Labour,
Vellore



WEB COPY



WP.No.41282 of 2016

M.DHANDAPANI,J

NHS

WP.No.41282 of 2016&
WMP.No.35249 of 2016

27.07.2023