



WEB COPY



W.P.Nos.41815, 37955 & 37971 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

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

W.P.Nos.41815, 37955 & 37971 of 2016

and

WMP.Nos.35784, 32550 & 32562 of 2016

The Managing Director,
Tamilnadu State Transport Corporation Coimbatore II Ltd.,
Erode Region, Chennimalai Road,
Erode – 1. ...Petitioner in W.P.No.41815 of
2016

The Managing Director,
Tamilnadu State Transport Corporation Coimbatore Ltd.,
Erode Region, Chennimalai Road,
Erode – 1. ...Petitioner in W.P.Nos.37955 & 37971 of 2016

Vs.

1. The Inspector of Labour
Authority under the Tamilnadu Industrial Establishment
(Conferment of Permanent Status) Act, 1981,
Erode. ... 1st Respondent in all W.P's.
2. M.K.Thangamani ...2nd Respondent in W.P.No.41815 of
2016
3. K.K.Munusamy ...2nd Respondent in W.P.No.37955 of



W.P.Nos.41815, 37955 & 37971 of 2016

2016

4. R.Shanmugam

...2nd Respondent in W.P.No.37971 of

2016

Prayer in W.P.No.41815 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the order passed by the 1st respondent in Na.Ka.No.2224/2011 dated 26.08.2015 and to quash the same as illegal.

Prayer in W.P.No.37955 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the order passed by the 1st respondent in Na.Ka.No.755/2011 dated 26.08.2015 and to quash the same as illegal.

Prayer in W.P.No.37971 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the order passed by the 1st respondent in Na.Ka.No.754/2011 dated 26.08.2015 and to quash the same as illegal.

In all W.P's.:

For Petitioner : Mr.M.Murali Vinoth

For Respondents : Mr.M.S.Prem Kumar, for R1
: Mr.K.V.Shanmuganathan, for R2

COMMON ORDER

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

2. The petitioner has come up with these Writ petitions seeking



W.P.Nos.41815, 37955 & 37971 of 2016

quashment of the proceedings of the 1st respondent all dated 26.08.2015

bearing Na.Ka.Nos.2224, 755 & 754 of 2011 respectively.

3. The case of the petitioner is that the respective 2nd respondent (in short 'workmen') were employed as drivers in the petitioner corporation and were subsequently sent for training and during the said training period, they were paid with a stipend of Rs.2,500/- for the 1st year and Rs.3,000/- from next year. Further, only on a completion of two years of training, any incumbent would be regularized as a temporary employee and based on the availability of vacancy and on completion of 480 days from thereon, they will be entitled for regularisation. While so, due to certain irregularities committed by the office bearers of the petitioner corporation, about 57 trainee drivers including the workmen herein were regularised before completion of the above said mandatory period. Therefore, pursuant to the recommendation of the Government in letter dated 03.04.2003, the petitioner management decided to terminate the services of the workmen, aggrieved by which, the workmen and others filed batch of Writ petitions in W.P.No.11785 of 2003 and others, and pursuant to the order of this Court dated 13.05.2003, the services of the workmen herein were agreed to be



W.P.Nos.41815, 37955 & 37971 of 2016

regularised from 01.09.2005, along with casual employees also. Whiles, being not satisfied with the regularisation granted in their favour, the workmen have filed petitions before the 1st respondent seeking conferment of permanent status and though the petitioner corporation contended that the claim of the workmen with regard to regularisation is subject to the final order dated 13.05.2003 made in W.P.No.11785 of 2003 and batch of cases and based on the 12(3) settlement entered between the petitioner management and the union, however, the 1st respondent, without considering any of the above said facts, vide present impugned orders, granted permanent status in favour of the workmen. Challenging the same, the petitioner has come up with these Writ petitions.

4. Learned counsel for the petitioner submitted that subsequent to the orders of this Court, the services of the workmen were regularised, however, without appreciating the above, the Tribunal had directed grant of permanent status, which is unsustainable, as it was not the issue, which was agreed upon before this Court in the earlier round of litigation. When the issue of permanency had not been addressed before the appropriate authority, the direction issued by the Tribunal to grant permanent status is



impermissible and, accordingly, prayed for appropriate orders.

WEB COPY

5. Learned counsel appearing for the respective 2nd respondent fairly submitted that subsequent to the writ petition and orders passed by the Government agreeing to regularise the services, the services of the workmen herein were regularised in the year 2005. However, the said fact was not brought to the notice of the Tribunal, which has resulted in the order of grant of permanent status and to that extent this Court may modify the order passed by the Tribunal.

6. On the above said contentions, heard learned counsel appearing for the 1st respondent and perused the materials available on record.

7. The respective 2nd respondent joined the services of the petitioner on different dates and subsequently their services were regularised, but due to certain allegations with regard to the regularisation being illegal, the petitioner decided to terminate the services of the workmen. However, subsequent to the order of this Court in W.P.No.11785, the services of the workmen were agreed to be regularised. The said aspect is not in dispute.

8. When the services of the workmen were regularised upon the orders



W.P.Nos.41815, 37955 & 37971 of 2016

of this Court, there arises no necessity for the Tribunal to order permanent status to the said workmen, as the Tribunal cannot pass any order in contravention of the orders passed by this Court. Rightfully so, learned counsel on either side agreed to the above and also fairly submitted that the regularisation aspect has not been properly placed before the Tribunal.

9. In view of the above, the impugned orders of the 1st respondent all dated 26.08.2015 are set aside and they would stand regularised in pursuant to the orders passed by this Court in the earlier writ petition. The workmen herein are entitled to enjoy the subsequent regularisation granted by the petitioner management on and from the date of their respective regularisation.

10. Accordingly, these Writ Petitions stand disposed of with the aforesaid directions. No costs. Consequently, connected Miscellaneous petitions are closed.

27.07.2023

skt

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

6/8



W.P.Nos.41815, 37955 & 37971 of 2016

WEB COPY

To

The Inspector of Labour
Authority under the Tamilnadu Industrial Establishment
(Conferment of Permanent Status) Act, 1981,
Erode.



WEB COPY



W.P.Nos.41815, 37955 & 37971 of 2016

M.DHANDAPANI., J.

skt

W.P.Nos.41815, 37955 & 37971 of 2016
and
WMP.Nos.35784, 32550 & 32562 of 2016

27.07.2023