



W.P.No.25390 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.25390 of 2014
and M.P.No.1 of 2014

The Management of
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd., 37, Mettupalayam Road
Coimbatore – 641 043.

.... Petitioner

-Vs-

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

2.G.J.John Kennady

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the order passed in Na.Ka.No.1142/2009 dated 30.10.2013 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.A.Sundaravadanam

For Respondents : Mr.K.M.Ramesh, Senior Counsel
for Mr.S.Appunu – for R2
R1 - Court



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ORDER

The case of the writ petitioner is that the Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen), Act 1981 does not have the jurisdiction in the light of the 12(3) Settlement arrived at between the Union and the writ petitioner relating to the very workman.

2. The second respondent (hereinafter referred to as 'workman') was appointed as a Conductor on a daily wage basis from 17.09.1998. On 16.05.1999, he was terminated from service. Challenging the termination, W.P.No.10165 of 1999 was presented. The said writ petition was disposed of directing the writ petitioner (hereinafter referred to as 'Management') to reinstate the workman in service, as he had completed 240 days of service. Pursuant to the order, the workman was reinstated on 14.02.2000.

3. Against the order passed in W.P.No.10165 of 1999, the Management filed W.A.No.1044 of 2003 and that was dismissed on 05.04.2004. Thereafter, the workman was issued with a show cause notice by the Management, calling upon him to show cause why he should not be terminated as he has not completed 240 days. The said order was challenged by way of a writ petition in W.P.No.17505 of 2004. This Court had granted an interim order and by virtue of that, the petitioner was continued in service. On 01.09.2005, the Management



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appointed the workman as a daily wage Conductor. It also regularised his service from 01.07.2006. The workman approached the 1st respondent, who is the competent authority under the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen), Act 1981. His prayer was that he should be regularised from 10.01.2000, when he was reinstated pursuant to the order passed in W.P.No.10165 of 1999.

4. It is the case of the Management that pursuant to the 12(3) Settlement the workman, had been regularised from 01.07.2006. Hence, the workman is not entitled to make a claim that he should be regularised from 14.02.2000. This is the issue to be decided.

5. Mr.K.M.Ramesh, learned Senior Counsel appearing on behalf of Mr.S.Appunu, learned counsel for the 2nd respondent workman would bring to my notice that this very issue had been argued before my brother Justice P.D.Audikesavalu in W.P.No.15463 of 2017. The relevant portion is paragraph No.4, which is extracted hereunder:

“4. It is vehemently contended by the Learned Counsel for the Petitioner that when the Second Respondent had accepted the benefit of confirmation in service in terms of settlement under Section 12(3) of the I.D. Act without any demur, he is estopped from invoking the provisions of the Permanent Status Act. It must, at once, be pointed



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out here that the Hon'ble Supreme Court of India in **Oswal Agro Furane Ltd., -vs- Oswal Agro Furane Workers Union** [(2005) 3 SCC 224] has reiterated the legal position that a settlement cannot be arrived between the employer and its employees under the provisions of the I.D. Act, without satisfying the requirements of law or in contravention of legal provisions. When it is not in dispute that the Second Respondent was employed from 20.05.1998 onwards following the prescribed procedure of recruitment through employment exchange, he is entitled to the constitutional guarantee of equality of opportunity and treatment in public employment under Articles 14 and 16 of the Constitution. As such, the Petitioner could not unilaterally treat as if the Second Respondent had worked only from 20.08.1998 merely because the daily paid appointment was given from that date. The conferment of permanent status on the Second Respondent with effect from 12.12.2000, when he completed 480 days of 'continuous service' in a period of 24 calendar months in the establishment of the Petitioner, is more beneficial than the confirmation of service granted by the Petitioner to him with effect from 01.09.2008."

6. Therefore, reading of this judgment brings to our notice that the statutory benefit that had been conferred on the workman cannot be unilaterally be withdrawn or postponed by the Management under the guise of a 12(3) settlement.



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7. Learned counsel for the Management would bring to my notice an order passed by this Court in W.A.No.2055 of 2021 dated 27.02.2023. The said writ appeal relates to workmen in Electricity Board. The workmen in Electricity Board are a different class in themselves by virtue of a 18(1) settlement, which has been recognised by this Court in W.A.No.1302 of 2003. The workmen in Electricity Board cannot be treated on par with the case at hand because, the workman herein had been put back into service by virtue of an order of this Court in W.P.No.10165 of 1999.

8. I do not find any infirmity with the order of the 1st respondent. The writ petition has no merits and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

22.06.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST
To

The Inspector of Labour
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V. LAKSHMINARAYANAN, J.

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