



W.A.No.21 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.01.2023

Coram:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.21 of 2023

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Alliankothai

.. Appellant

Vs.

1. The Superintending Engineer,
Tamil Nadu Electricity Board,
West Circle, 110/11 KV,
S.S.Complex, Thirumangalam,
Anna Nagar, Chennai-600 040.

2. The Inspector of Labour,
No.33, Vengada Narayana Road,
Nandanam,
Chennai-600 035.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 04.08.2022 passed by the learned Single Judge, in W.P.No.27632 of 2008 on the file of this Court.

For appellant : Mrs.AL.Ganthimathi

For respondents: Mr.Anand Gopalan for M/s.T.S.Gopalan & Co. for R-1
Mrs.E.Ranganayaki, Addl.G.P. for R-2

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JUDGMENT

(The Judgment of the Court was delivered by S.Vaidyanathan, J)

The appellant, who was the applicant before the Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen), Act, 1981, contended that she was employed as Typist in the Tamil Nadu Electricity Board (TNEB) and that she, having completed 480 days of continuous service in a period of 24 calendar months, deemed to have attained permanent status and that she is entitled to permanent status under TNEB.

2. The Management (TNEB), which is the first respondent herein, had suffered adverse order before the Authority, has questioned the order passed in the Writ Petition, contending that though service of the person was utilised, but not directly and that there was a contract between M/s.Super Fast Courier and the TNEB and that the services of the applicant were utilised and that there was no direct employer-employee relationship.



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3. It is further stated by the Management that the employee (appellant) has not rendered continuous employment so as to seek permanent status and that the writ appellant (applicant) before the Authority had given the list by means of statement showing that she was paid Rs.1.50 per page and depending upon the exigency of the work, the services have been utilised and that there is no privity of contract to engage the appellant herein on permanent basis. It is further stated that even going by the statement of the appellant, she was deprived of the employment on 14.08.2003, which has not been questioned by her as on date.

4. The first respondent/Management/TNEB also contended that by erroneous finding that the appellant/employee's services have been utilised, passed an order that she would be entitled to permanent status with all other benefits.

5. The learned Single Judge, taking note of the submissions of the parties, came to the conclusion that the appellant/employee has rendered service between 1999 and 2003, totalling 200 and odd days only, and there



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is no evidence to show that she has rendered 480 days of continuous service in a period of 24 calendar months.

6. Even assuming for the sake of argument that the order of the Authority is correct, taking note of the plea of the appellant (herein) before the Authority, and that there is no employment after 14.08.2003, the learned Single Judge has modified into one of compensation, instead of conferring permanent status and directed the first respondent/TNEB to reinstate the appellant-employee in service.

7. The main contention of the appellant-employee before this Court is that even though the documents have been produced, none of the same are referred to by the Authority and the learned Single Judge has proceeded on the basis that neither of the parties have produced the documents.

8. Heard both sides and perused the materials available on record.

9. It is a fact that the appellant-employee who was employed on

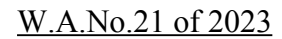


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piece-rate wage basis, but the finding is that she has rendered only 200 and odd days from 1999 to 2003. There was no challenge to the non-employment after 14.08.2003, even though it has been stated by the appellant that she was on maternity leave from 03.05.2003 to 13.05.2003. Though the parties have marked exhibits, that has not been reflected by means of annexure in the order of the Authority. It is a fact that the employee has been in service only for 200 and odd days for the period between 1999 and 2003 and that there is no other evidence to show that she has rendered 480 days of service in a period of 24 calendar months, seeking permanent status.

10. The learned Single Judge, after taking note of the pleadings of both parties, came to the conclusion that the employee would be entitled to a sum of Rs.75,000/- as compensation.

11. That apart, the application for permanent status had been filed only after denial of employment, which has been admitted by the appellant-employee. When an employee is in service and after filing of Permanent



12. In the case on hand, the appellant-employee has filed permanent case after non-employment. Almost 20 years have gone-by and the employment has not been questioned. On the date of the impugned the learned Single Judge has observed that the appellant/employee 54 years old. Even the compensation awarded by the learned Single need not be granted to appellant/employee, but the learned Standing



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Counsel appearing for the first respondent/TNEB submitted that he has advised the Management to comply with the impugned order passed by the learned Single Judge extending the monetary benefit of Rs.75,000/- to the appellant/employee.

13. Taking note of the submissions of both parties, we are of the view that the appellant who is the applicant before the Authority, is not entitled for permanent status as pleaded by her and that the order of the Authority below granting permanent status, had been rightly interfered with by the learned Single Judge, which does not require any interference by this Court.

14. If the amount of Rs.75,000/- has not already been paid, the first respondent/TNEB shall release the same within a period of one month from the date of receipt of a copy of this judgment.

15. With the above observations, the Writ Appeal is dismissed. There shall be no order as to costs.

16. Before parting with this judgment, it is to be mentioned that since



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the proceedings under the various labour enactments are only summary in nature, in order to avoid confusion, we direct: (i) The Principal Secretary, Labour Department, Secretariat, Fort St.George, Chennai-600 009, (ii) The Commissionerate of Labour, DMS complex, Anna Salai, Teynampet, Chennai-600 006 and (iii) The Directorate of Industrial Safety and Health, Thiru.Vi.Ka. Industrial Estate, Guindy, Chennai-600 032, to ensure that the documents that are available and marked by the parties before the Court/Tribunal, apart from the list of witnesses, needs to be shown in order to enable the higher forums to call for the details of the exhibits and the depositions, in case the said order is questioned before the higher forum. We make it clear that when the matter is pending before the higher forum, the Court/Tribunal have to maintain the records till the appeal filed before the higher forum is disposed of.

(S.V.N.,J) (M.S.Q., J)
10.01.2023

Index: Yes/no

Speaking Order: Yes/no

Neutral Citation: Yes/no

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2. The Inspector of Labour,
No.33, Vengada Narayana Road,
Nandanam, Chennai-600 035.
3. The Principal Secretary to Government,
Labour Department, Secretariat, Fort St.George,
Chennai-600 009.
4. The Commissionerate of Labour, DMS complex,
Anna Salai, Teynampet, Chennai-600 006.
5. The Directorate of Industrial Safety and Health,
Thiru.Vi.Ka. Industrial Estate, Guindy, Chennai-600 032.



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