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W.P.No.6069 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.6605 & 28526 of 2017
and WMP.Nos.30663 of 2017 and 1248 of 2021**

W.P.No.6605 of 2017:

1. V.Venkatesan
 2. M.Mahadevan
 3. D.Shanmugam
 4. V.Seeyalam
 5. R.Loganathan
V.Sundaramurthy (deceased)
 6. Mangalam
 7. Lannagi
- (P6 and P7 are impleaded vide order dated
31.07.2023 by this Court in WMP.No.
1248 of 2021 in WP.No.6605 of 2017)

...Petitioner

Vs.

1. Tamil Nadu State Transport Corporation,
Rep. By its Managing Director,
Villupuram Ltd., Vazhudareddy,
Villupuram.

2. The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram Ltd., Kancheepuram Region,
Kancheepuram.

...Respondents

Petition filed under Article 226 of the Constitution of India, for issuance
of Writ of Mandamus directing the respondents to consider the petitioners



W.P.No.6069 of 2017

joint representation dated 21.01.2017 and grant their permanency from the date of completion of 480 days as per the common order dated 05.12.2016 in Na.Ka.No.E/1246/2014 and to grant the petitioners correct and appropriate scale of pay, grade pay and pay and allowances, by giving their periodical wage revision benefits, review benefits, annual and special increments, etc., with arrears and arrears of difference in wages and all other consequential benefits, including employee provident fund contribution, award costs.

For Petitioner : Mr.V.Ajay Khose

For Respondents : Mr.M.Aswin

W.P.No.28526 of 2017:

The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram Ltd., Kancheepuram Region,
Kancheepuram.

.. Petitioner

Vs.

1. V.Venkatesan
2. M.Mahadevan
3. D.Shanmugam
4. V.Seeyalam
5. R.Loganathan
6. V.Sundaramurthy
7. The Inspector of Labour



W.P.No.6069 of 2017

Authority under the Tamil Nadu Industrial Establishment
(Conferment of Permanent Status) Act, 1981,
Kancheepuram.

..Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the order passed by the first respondent in Na.Ka.No.E/1246/2014 dated 25.12.2016 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.M.Aswin

For Respondents : Mr.V.Ajay Khose RR1 to 6
Mr.M.S.Premkumar, GA R7

COMMON ORDER

Since the issue involved in both the cases are one and the same and hence, both the writ petitions are disposed of by way of this common order.

2. W.P.No.6605 of 2017 has been filed seeking a direction to the the respondents to consider the petitioners joint representation dated 21.01.2017 and grant their permanency from the date of completion of 480 days as per the common order dated 05.12.2016 in Na.Ka.No.E/1246/2014 and to grant the petitioners correct and appropriate scale of pay, grade pay and pay and allowances, by giving



W.P.No.6069 of 2017

their periodical wage revision benefits, review benefits, annual and special increments, etc., with arrears and arrears of difference in wages and all other consequential benefits, including employee provident fund contribution, award costs.

3. W.P.No.28526 of 2017 has been filed seeking to quash the common order passed by the first respondent in Na.Ka.No.E/1246/2014 dated 25.12.2016.

4. For the sake of convenience, the petitioners in W.P.No.6605 of 2017 and the respondents 1 to 6 in W.P.No.28526 of 2017 are referred to as 'Workmen' and the first respondent in W.P.No.6605 of 2017 and the petitioner in W.P.No.28526 of 2017 are referred to as "Corporation".

5. The facts of the case are as follows:

The workmen were appointed in the Corporation on different dates in different posts viz., casual labour, store keeper, canteen helper, office assistant etc., In the year 1992, a new Corporation with the name Puratchi Thalaivar M.G.R. Transport Corporation was formed with effect from 01.04.1992. Later, the said M.G.R Corporation was merged with the Corporation. Therefore, the Workmen were terminated from service on



W.P.No.6069 of 2017

05.04.1997, 22.03.1997, 19.03.1997 respectively. Challenging the order of the termination, the workmen raised an industrial dispute before the Labour Court and after adjudication, the Labour Court passed an award for reinstatement with back wages and continuity of service. Challenging the said order, the Corporation filed a writ petition before this Court in W.P.Nos.29666 to 29671 of 2005. This Court, vide its order dated 28.04.2009, allowed the same and set aside the award passed by the Labour Court. As against the same, the Workmen filed a writ appeal before this Court in W.A.No.1321 to 1326 of 2009. The Hon'ble Division Bench has set aside the order of the learned Single Judge and directed the Corporation to reinstate the workmen for any suitable posts as expeditiously as possible. However, the said order has not been complied with. Therefore, the Workmen preferred SLP before the Hon'ble Supreme Court and the same was also dismissed. Thereafter, the workmen have filed contempt petitions before this Court for complying with the order. This Court has closed the contempt petitions and liberty granted to the workmen to approach the appropriate forum. Subsequently, instead of approaching the appropriate forum, again the workmen raised a dispute before the Inspector of Labour, Authority under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act,



W.P.No.6069 of 2017

Kancheepuram claiming regularization and from the date of joining and on completion of 480 days. The Labour Court, allowed the application vide order dated 05.12.2016 and passed an order in favour of the workmen. Challenging the same, the Corporation has filed a writ petition No.28526 of 2017 to quash the same.

6. On the other hand, the workmen have filed another writ petition No.6605 of 2017 seeking a direction to the Corporation to implement the order dated 05.12.2016 passed by the Labour Court.

7. The learned counsel for the Corporation submitted that once an appointment order was issued to the workmen and the service was regularized pursuant to the order passed by the Hon'ble Division Bench of this Court, the Inspector of Labour have no jurisdiction for granting permanent status to the workmen from the date of initial appointment and on completion of 480 days, which is not sustainable one.

8. The learned counsel for the workmen submitted that the workmen have sent a representation to the respondents on 21.01.2017 to implement the order of the Inspector of Labour dated 05.12.2016 and the same is still pending. Hence, this Court may direct the respondents to



W.P.No.6069 of 2017

consider the said representation and pass appropriate orders within the stipulated time as fixed by this Court.

9. Heard the learned counsel for the Corporation and the learned counsel for the workmen and perused the materials available on record.

10. The issue lies in a very narrow compass. The order of regularization of the workers has reached a finality. The Hon'ble Division Bench of this Court vide order dated 18.11.2010 has directed the Corporation to regularize the services of the workers; however, without any back wages. Indeed, the Division Bench has clarified that the workers are not entitled for backwages. The Special Leave Petition preferred by the Corporation against the judgment of the said writ appeal and the same was dismissed by the Hon'ble Supreme Court. Since the order of regularization was not complied with, the workers have filed contempt petitions. Thereafter, the Corporation has regularized the services of the workers. After enjoying the order of regularization, the workers have made an application to the Inspector of Labour seeking back wages and continuity of service and other benefits. When the Division Bench has made it very clear that the workers are not entitled for backwages, this Court is not able to understand as to how the Inspector of Labour has



W.P.No.6069 of 2017

ordered regularization from the date of completion of 480 days of service.

If the workers were aggrieved by the judgment of the Hon'ble Division Bench denying them back wages, nothing prevented them from the Hon'ble Supreme Court challenging the judgment of the Division Bench. Having remain silent and accepted the judgment for regularization, after enjoying the benefit of regularization, the workers have made an another attempt to win their demand of back wages with continuity of service. They ought not to have approached the Inspector of Labour to such a demand. The Inspector of Labour also should not have gone beyond his jurisdiction and when the matter has reached this logical end, when the Division Bench made it very clear that the workers are not entitled to get backwages. The Inspector of Labour has ended at fault to have pass such an order. Nothing prevented from the workmen to apprehend the competent authority/forum for redressal of their grievance. This Court has no hesitation in quashing the order passed by the Inspector of Labour.

11. In the result, the writ petition filed by the Management in W.P.No.28526 of 2017 is allowed and the impugned order dated 05.12.2016 passed by the Inspector of Labour, Kancheepuram is quashed.

12. The petition in W.P.No.6605/2017 have sent a representation to



W.P.No.6069 of 2017

the General Manager, TNSSTC, Kancheepuram Division on 21.07.2017 to implement the order of the Inspector of Labour dated 05.12.201. The said authority has been sit over the representation without taking any decision or passing any order which is root cause for filing of the writ petition. The General Manager, TNSSTC, Kancheepuram Division is directed to pass an order on the representation submitted by the workers within a period of two weeks from the date of receipt of a copy of this order. With the above direction, W.P.No.6605 of 2017 is disposed of. Connected miscellaneous petition is closed. No costs.

31.07.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

M.DHANDAPANI,J.

Rli

To

1. Tamil Nadu State Transport Corporation,
Rep. By its Managing Director,
Villupuram Ltd., Vazhudareddy,
Villupuram.

2. The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram Ltd., Kancheepuram Region,



W.P.No.6069 of 2017

Kancheepuram.

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3. The Inspector of Labour
Authority under the Tamil Nadu Industrial Establishment
(Conferment of Permanent Status) Act, 1981,
Kancheepuram.

**W.P.No.6605 & 28526 of 2017
and WMP.Nos.1248 of 2021**

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