



Writ Appeal No.678 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13/4/2023

C O R A M

The Hon'ble Mr.Justice S.VAIDYANATHAN
a n d

The Hon'ble Ms.Justice R.KALAIMATHI

Writ Appeal No.678 of 2023

a n d

C.M.P.No.6764 of 2023

The Managing Director
Metropolitan Transport Corporation
Anna Salai
Chennai 2.

...

Appellant

Vs

1. The Deputy Commissioner of Labour
Kancheepuram.

2. Thiru.C.Kuppusami

...

Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 29/4/2022 made in W.P.No.17642 of 2019 and consequently, dismiss W.P.No.17645 of 2019.

For appellant

...

Mr.Ramanlal
Additional Advocate General
Assisted by Mr.A.Vinothraj



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For respondents

...

Mrs.Sangamithirai
SGP for R.1
Mr.V.Ajay Khose
for R.2.

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J U D G M E N T

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

This Writ Appeal has been filed to set aside the order, dated 29/4/2022 made in W.P.No.17642 of 2019.

2. The case of Management is that the employee concerned herein was appointed as Reserve Crew Conductor, in terms of G.O.(D) Ms.No.41, dated 16/3/2007. Management contended that the Reserve Crew was engaged on the job, as and when required, as per the appointment order and conditions stipulated thereunder.

3. Second respondent drew the attention of this Court to paragraph No.8 of the counter before the authority concerned and the relevant portion is extracted below:-



“..... The writ petition is disposed of with a direction to the respondents to fill up the vacancies as per the regular permanent norms per bus as provided in G.O.(D) No.41 dated 16/3/2007 first by regularizing the reserve category staff strictly based on their seniority. There shall be no appointment as against the permanent regular vacancies without appointing these reserve category employees. Further, it is made clear that the reserve category employees against whom specific cases are pending like fatal accident, misbehaviour, major accident, theft, fare collected ticket not issued cases need not be considered.”

4. He would further submit that the employees have been regularised from 1/11/2014 and that the authority ought not to have passed an order of regularisation with effect from 1/10/2012. Though seven employees have approached the authority, plea of three employees have been rejected and two employees have not been prosecuted further. These two employees who have considered in the appeal alone sought implementation of the order of



the authority and that the order of the authority was put under challenge.

Since the employees have not completed 480 days of continuous calendar month and that services have been utilised only on and off, when regular drivers are not there, order of the authority granting regularisation from 1/10/2012 has got to be interfered with and that the benefits flowing from the date of appointment with effect from 1/11/2014 alone may be granted.

5. Mr.V.Ajay Khose, learned counsel appearing for the workmen would submit that pursuant to the directions of this Court, dated 20/4/2022, authorities have verified the entire records and based on that learned Additional Government Pleader has filed a report on 29/4/2022 and the report is extracted hereunder:-

“Pursuant to the directions of this Hon'ble Court issued vide its order dated 20/4/2022 and thereafter, directions issued on 28/4/2022 and 29/4/2022, the records relating to Thiru.C.Kuppusami were instructed by me to be brought from the concerned office where it was maintained.



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Officials from the office of the Assistant Commissioner of Labour, Kancheepuram had shown the evidentiary records based on which the Authority had passed its order dated 28/1/2019 and in particular, where the Authority had arrived at a conclusion that the second respondent had worked for a period of 480 days.

I have checked the aforesaid evidentiary records relating to the second respondent. They consist of daily receipts issued by the management to the second respondent for the daily ticket collection money deposited by the second respondent with the management receipts for 480 days have been produced starting from 11/1/2011 to 1/10/2012. There is also a manually tabulation containing details of daily dates, bus routes, service category, shift detail and deposit receipt numbers which have been provided for 480 days.



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As per my instructions, these are, inter alia, the evidentiary materials based on which the Authority had arrived at the conclusion that the second respondent has worked for 480 days as of 1/10/2012.”

6. Even after the orders of authority, when the matter was pending, yet another exercise was done by the authority under the Tamil Nadu Industrial Establishment (Conferment to permanent status to workmen) Act, 1981 and report has been filed, which is extracted supra.

7. In view of the above said submission, the contention that employees have been working sporadically and on call basis may not be correct. Even though the appointment order has stated that the employees would be engaged on and off depending upon the vacancies that may arise, services of the employees have been utilised continuously without any break, more so, based on the report filed by the learned Additional Government Pleader, on 29/4/2022 and after the exercise was done by the authorities concerned.



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8. In view of the same, we find no merit in the appeal and the same is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

(S.V.N.,J) (R.K.M.,J)
13th April, 2023

mvs.

Index: Yes/No

Neutral Citation: Yes/No



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