



WP.Nos.29455, 29457, 29460,
29462, 29464, 29467, 30960,
30961, 30964 & 30978 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. Nos.29455, 29457, 29460, 29462,
29464, 29467, 30960, 30961, 30964 & 30978 of 2022
& WMP.Nos.28795, 29798, 29799, 28801, 28802, 28804 to 28807, 28809,
28810, 30352 to 30355, 30359, 30360, 30372 & 30374 of 2022

The Managing Director,
Tamil Nadu State Transport
Corporation (Kovai Division)
Ltd., 37, Mettupalayam Road,
Coimbatore-641043.

...Petitioner in
all the WPs

Vs

1.M.Subramani

...R1 in WP.No.
29455 of 2022

2.S.M.Babu

...R1 in WP.No.
29457 of 2022

3.N.Rajendran

...R1 in WP.No.
29460 of 2022

4.P.Chinnadurai

...R1 in WP.No.
29462 of 2022



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5.M.Marimuthu

...R1 in WP.No.
29464 of 2022

6.P.Jagadeesh

...R1 in WP.No.
29467 of 2022

7.P.Ramamoorthi

...R1 in WP.No.
30960 of 2022

8.R.Rangaraj

...R1 in WP.No.
30961 of 2022

9.P.Ganesan

...R1 in WP.No.
30964 of 2022

10.P.Nagaraj

...R1 in WP.No.
30978 of 2022

all C/O Bharathiya Pokkuvarathu
Thozhilalar Sangam (BMS)

11.The Inspector of Labour,
Office of the Inspector of
Labour, Coimbatore-18.

...R2 in all WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records in Na.Ka.E 753/2015, Na.Ka.E. 756/205, Na.Ka.E. 5632/2015, Na.Ka.E. 758/2015, Na.Ka.E. 757/2015, Na.Ka.E. 759/2015, Na.Ka.E. 9901/2015, Na.Ka.E. 1742/2015, Na.Ka.E. 755/2015 and Na.Ka.E. 754/2015 on the file of the second respondent, all dated 18.3.2021 and quash the same.



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For Petitioner in all the WPs : Mr.A.Sundara Vadhanan

For respective R1 in all the WPs : Mr.V.Ajoy Khose

For Respondent-2 in all the WPs : Mr.M.S.Premkumar, GA

COMMON ORDER

Since the issue involved in all Writ Petitions is one and the same, this Court is inclined to dispose of all these petitions by way of this common order.

2. These petitions are filed by the petitioner seeking to quash the common order dated 18.3.2021 made respectively in Na.Ka.E 753/2015, Na.Ka.E. 756/205, Na.Ka.E. 5632/2015, Na.Ka.E. 758/2015, Na.Ka.E. 757/2015, Na.Ka.E. 759/2015, Na.Ka.E. 9901/2015, Na.Ka.E. 1742/2015, Na.Ka.E. 755/2015 and Na.Ka.E. 754/2015 on the file of the second respondent.

3. The facts leading to filing of these cases are as follows :

(i) The respective first respondent in these writ petitions were working



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in the petitioner corporation as bus washers on temporary basis. They were paid on piece rate basis depending upon the number of buses they cleaned as per requirements. They were not given any appointment order. The petitioner corporation never agreed to regularize their services.

(ii) Earlier, the respective first respondent and others raised industrial disputes before the Labour Court, Coimbatore. Further, the Labour Court, Coimbatore, by order dated 31.5.2001, directed the petitioner corporation to regularize their services with continuity of service and back wages. Aggrieved by that, the petitioner corporation filed W.P.No.24833 of 2003 etc. cases and the first respondent and others filed W.P.Nos.14248 of 2002 and 34176 of 2003. Further, this Court, by a common order dated 02.3.2010, allowed the writ petitions filed by the workmen and permitted them to claim difference in payment from the date of award till the date of disposal of the writ petitions.

(iii) As against the said common order dated 02.3.2010, the petitioner corporation filed writ appeals in W.A.Nos.1536 to 1541 and 1569 to 1574



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of 2011 and they were dismissed by a Division Bench of this Court by common judgment dated 12.10.2011. Challenging the same, the petitioner corporation filed Civil Appeal Nos.7867 to 7883 of 2014 before the Apex Court and they were disposed of by common judgment dated 10.7.2014 wherein the part of the award so far as it related to regularization of the workmen was set aside and the remaining part of the award of reinstatement was upheld.

(iv) After losing the battle before the Apex Court, the respective first respondent approached the second respondent by filing applications under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 seeking to regularize their services stating that they completed 480 days of service in the petitioner corporation and they were allowed by the impugned order. Challenging the same, the petitioner corporation is before this Court on the ground that the second respondent had not rendered any finding with reference to jurisdiction and power to pass orders against the orders passed by the Apex Court in the earlier round of litigation.



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4. Learned counsel appearing for the petitioner corporation would submit that admittedly, the respondents in respective Writ Petitions were engaged as bus washers in the petitioner management. They were paid on piece rate basis depending on the number of buses cleaned by them and they were not issued any appointment orders. Even in the earlier award passed in I.D.Nos.388 to 404/1997, the Labour Court held that they are not entitled for back wages, however, they were granted the relief of regularization of service and reinstatement with continuity of service which was challenged by the petitioner corporation before the Hon'ble Supreme Court wherein, it was held that the workmen were illegally terminated however, they are not entitled for regularization of service and in other aspects, the award of the Labour Court remained unaltered. Subsequently, their services were restored. While so, in the year 2015, the respective workmen approached the 2nd respondent/Authority under the Permanent Status Act by filing a petition under the Act, seeking permanency claiming to have completed 480 days of continuous service in the petitioner management wherein, the impugned



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order came to be passed contrary to the order of the Hon'ble Apex Court by granting permanent status to the respective workmen which is not sustainable. Accordingly, he prayed for allowing these Writ Petitions.

5. Learned counsel appearing for the respective 1st respondent would submit that contrary to the provisions of Section 25(F) of the Industrial Disputes Act, 1947 the workmen who were engaged in the services of the petitioner corporation were illegally terminated from service in the year 1997 which resulted in passing of the earlier award dated 31.05.2001 in favour of the respondents/workmen. Since, the workmen have completed 480 days of continuous service in the petitioner management, they are entitled for regularization as also for other wages during the period of non-employment. The said aspect has been properly adjudicated by the 2nd respondent while passing the impugned order and hence, the same cannot be interefered with.

6. On the above contention, this Court heard the learned Government



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Advocate appearing for the 2nd respondent and perused the materials available on record.

7. It is the case of the petitioner that the workmen herein were engaged with the petitioner corporation only on temporary basis and that they have not completed the mandatory period of 480 days of continuous service in the petitioner corporation and hence they are not entitled for regularization of service against which, the workmen have approached the Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 seeking to regularize their services claiming to have completed 480 days of service in the petitioner corporation and the Authority held in favour of the workmen contrary to the Judgement rendered by the Hon'ble Apex Court.

8. Even in the earlier award, the relief of regularization was granted to the workmen, however, after adjudication, the Hon'ble Supreme Court has held that the workmen are not entitled for claiming regularization of



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services. Nowhere it has held that the workmen had put in 240 days of service to confer the benefit of regularisation. Further, this Court is at a loss to understand as to how the authority under the Act has arrived at the respective dates so as to arrive at a conclusion that the respective workmen are entitled for regularization of services. When the issue with regard to regularization of the employees having already been decided by the Hon'ble Apex Court and that the said issue having already attained finality by the Supreme Court negating the case of the workmen for regularisation, which was in pursuance of the ID Act, 1947, merely because the workmen have not sought remedy under Act, 1981 would not in any way further the case of the workmen, when regularisation of the workmen was already rejected by the Apex Court even in the year 2014.

9. Further, as stated above, the Labour Court has prescribed the respective dates from which the workmen would be entitled for regularisation. As stated above, merely because the workmen have come before the Conferment of Permanent Status Authority would in no way alter



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their service so as to enable the authority to grant permanent status. It is even the admitted case of the workmen in the first round of litigation as also in the present round of litigation that they were paid daily wages and the workmen having not been posted against any regular vacancy, the question of regularisation does not arise. On the crucial date on which the workmen are alleged to have completed 480 days of continuous service, there being no permanent vacancy available to fit the workmen, the direction given by the Labour Court to create equivalent posts and absorb the workmen and grant permanent status to the said workmen goes against the orders passed by the Apex Court denying regularisation to the workmen on the very same set of facts. Further, the Labour Court has not rendered any factual finding with regard to the existence of permanent vacancy in the petitioner organisation in which the workmen could be permanently absorbed. When the workmen were not engaged against any permanent vacancy and in fact, in the absence of any permanent vacancy, the order passed by the Labour Court is against the decision of the Apex Court, which had already negated the case of the workmen on the same set of facts and, therefore, the present order of the



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Labour Court is wholly beyond its jurisdiction and cannot be sustained.

10. Therefore, this Court is of the view that the act of the Labour Court in granting permanent status to the workmen herein vide the impugned order on the ground that they have completed the mandatory period of 480 days of continuous service and directing the employer to create posts to grant permanent status to the workmen is beyond the jurisdiction of the Labour Court and is against the orders passed by the Apex Court, which cannot be sustained.

11. In view of the above, the impugned order dated 18.03.2021 passed by the respective 2nd respondent in all Writ Petitions is set aside. However, liberty granted to the workmen to file appropriate applications in order to establish that there exists permanent vacancy in which they could be absorbed on the crucial dates and also produce proof that they have rendered continuous service of 480 days in two calendar years. However, as ordered by the learned single Judge as also by the Division Bench, the workmen are



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entitled for differential amount, if any, from 31.05.2001, viz., the date of award till 2002 the date of restoration of their service which orders have been confirmed to that extent by the Apex Court. The petitioner is directed to calculate and disburse the said amount within period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

30.08.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

GLN/NHS

To
The Inspector of Labour,
Office of the Inspector of
Labour, Coimbatore-18.



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