



W.P(MD)No.17423 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17423 of 2020

and

W.M.P.(MD)No.14565 of 2020

1.The Manager,
Tamilnadu Tourism Development Corporation,
Hotel Tamilnadu,
Rameswaram,
Ramanathapuram District.

2.The Managing Director,
Tamilnadu Tourism Development Corporation,
Tamilnadu Tourism Complex,
No.2, Walajah Road,
Chennai-600 002.

... Petitioners

Vs.

1.The Assistant Commissioner of Labour
(Enforcement)/Authorised Officer under
Tamilnadu Industrial Establishments,
(Conferment of Permanent Status
to Workmen) Act,
Ramanathapuram.

2.K.Shanthi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the order of the first respondent in Na.Ka.No.A/995/2014, dated 29.05.2020 and quash the same.



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For Petitioner : Mr.K.S.Muthu

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R1

: Mr.D.Malaichamy for R2

ORDER

Heard the learned counsel on either side.

2. The second respondent filed a petition before the first respondent under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. The petitioners herein filed reply statement stating that the petition filed by the second respondent is not maintainable. The first respondent passed the impugned order dated 29.05.2020 granting declaration sought for. Challenging the same, the present writ petition has been filed.

3. After hearing the learned counsel on either side and going through the materials on record, I am more than satisfied that the matter has to be necessarily remanded to the file of the first respondent for fresh consideration. Of-course, the learned counsel appearing for the petitioners would strongly argue that the second respondent is no longer



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in service and that therefore, the first respondent lacks authority or jurisdiction to order reinstatement. According to the learned counsel for the management, the matter has to be thrashed out only before the jurisdictional Labour Court. I may not fully agree with the said contention. It is seen that the petition was filed before the first respondent way back in the year 2014. The termination or disengagement had taken place only during the pendency of the proceedings. The first respondent cannot direct the management to take back the employee or the workman. But the first respondent alone is the authority competent to give declaration of permanent status. However, the impugned order is virtually non-speaking. The parties have not adduced oral or documentary evidence. The claimant does not appear to have filed any IA for causing production of the document. If the claimant has sought production of the document such as attendance register and the same was not produced by the management, then, adverse inference can be drawn against the management. Since the first respondent had abruptly given a finding in favour of the claimant, I am constrained to interfere. The order impugned in the writ petition is set aside. The matter is remitted to the file of the first respondent to pass



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order afresh. The first respondent will call upon both the parties to adduce evidence and mark the documents. If the parties fail to adduce the evidence, the same shall be duly recorded and the matter shall be disposed of. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi

To

The Assistant Commissioner of Labour
(Enforcement)/Authorised Officer under
Tamilnadu Industrial Establishments,
(Conferment of Permanent Status
to Workmen) Act,
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G.R.SWAMINATHAN, J.

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