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W.P.No.2381 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

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THE HONOURABLE MRS. JUSTICE N.MALA

W.P.Nos.2381, 2383, 2386, 2387, 2390, 2391 of 2024 and
W.M.P.No.2590 of 2024

- | | |
|-------------------|--------------------------------------|
| 1. A.Afroze | ...Petitioner in W.P.No.2381 of 2024 |
| 2. K.Selvam | ...Petitioner in W.P.No.2383 of 2024 |
| 3. K.Vijayakumar | ...Petitioner in W.P.No.2386 of 2024 |
| 4. S.Baskar | ...Petitioner in W.P.No.2387 of 2024 |
| 5. V.Karunaneethi | ...Petitioner in W.P.No.2390 of 2024 |
| 6. K.Moorthy | ...Petitioner in W.P.No.2391 of 2024 |

Vs.

The Managing Director
Tamil Nadu State Transport Corporation Limited
Villupuram Division-II,
Vellore Divisional Office,
Rangapuram, Vellore,
Vellore District

...Respondent

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call



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for the records relating to the impugned order dated 20.09.2021 passed by the Managing Director in his proceedings in Tamil Nadu State Transport corporation (Villupuram) Limited, Vellore Zone, Vellore 9 Note No.19952/Ni3/TNSTC (Vilupuram) Vellore/2016 and quash the same and consequently direct the respondent to regularize the service in accordance with the provisions of Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen)Act, 1981.

For Petitioner : Mr.E.Srinivasan

COMMON ORDER

The Writ Petition is filed for Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 20.09.2021 passed by the Managing Director in his proceedings in Tamil Nadu State Transport corporation (Villupuram) Limited, Vellore Zone, Vellore 9 Note No.19952/Ni3/TNSTC (Vilupuram) Vellore/2016 and quash the same and consequently direct the respondent to regularize the service in accordance with the provisions of Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen)Act, 1981.

As the relief sought in all the writ petitions are one and the same, they are disposed by this common order.

2. The petitioners were appointed as Drivers in the Respondent Transport Corporation on casual basis. and were paid monthly salary at the



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rate of Rs.98/- per day. According to the petitioners, as they worked for more than 480 days in 24 calendar months, from the date of their appointment, they were entitled to be regularized in service immediately after the completion of 480 days under Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen) Act, 1981. According to the petitioners, the respondent ought to have regularized their service from May 2003, July 2000, July 2003, March 1997, May 2003, May 1998 respectively. But the respondents, inspite of the repeated request of the petitioners through the Trade union, refused to regularize their services.

3. The learned Counsel for the petitioners states that the respondent regularized the service with effect from 21.05.2006, 01.09.2005, 21.05.2006, 19.06.2006, 21.05.2006, 01.09.2005 respectively by order dated 28.09.2006. But their past services were not considered. The petitioners therefore approached the respondent to consider their past services in accordance with provision of Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen) Act, 1981. As the respondent did not consider the request of the petitioners, they raised the dispute before the Labour Officer, Vellore through the Trade Union to regularize their services with retrospective effect.



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On failure of conciliation, the Conciliation Officer submitted the failure report to the Government of Tamil Nadu. The Government of Tamil Nadu refused to refer the dispute to the Tribunal for adjudication on the ground of availability of alternate remedy under the Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen) Act, 1981.

4. According to the petitioners, as their services were already regularized, they could not invoke the provisions of the said Act. Thereafter the petitioners sent their representations to the respondent to consider the past services for regularization in accordance with the Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen) Act, 1981 and when the said representations were not considered, they filed W.P.No.4969 of 2015. This Hon'ble Court vide order dated 17.03.2023 directed the respondent to dispose off the representations dated 12.06.2014 in terms of judgment passed by this Court in the case of ***S.S.Sundar and others -vs-State of Tamil Nadu*** within the time stipulated therein. In pursuance to the order passed by this Court, the respondents passed the impugned order rejecting the claims of the petitioners. Aggrieved by the same, the petitioners preferred the above writ petitions.



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5. The only issue to be decided in these writ petitions is whether the respondent is justified in rejecting the claims of the petitioners. It is not disputed that the services of the petitioners were regularized with effect from 21.05.2006, 01.09.2005, 21.05.2006, 19.06.2006, 21.05.2006, 01.09.2005 respectively by order dated 28.09.2006. Admittedly, the services of the petitioners were regularized from the date of order of regularization. It is the grievances of the petitioners that their past services were not considered while regularizing their services.

6. From the reading of the Section 3 of Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen) Act, 1981, it is clear that the provision relates only to confirmation of the status of the workman who was in continuous service for 480 days in 24 calendar months, the section does not speak of consideration of past services. Moreover, it is seen that the petitioners services were regularized in terms of the settlement and the regularization orders were issued regularizing their services with effect from 21.05.2006, 01.09.2005, 21.05.2006, 19.06.2006, 21.05.2006, 01.09.2005 respectively.

7. Under the circumstances, I am of the view that consideration of past



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services being a disputed question of fact, the same cannot be decided by Writ

Court. I am therefore of the view that as the services of the petitioners were already regularized by the respondent, if the petitioners have any grievance about non-consideration of their past services, the petitioners should workout their remedy before the appropriate forum. Hence, I find no merits in the present writ petition, but in any event the petitioners are given liberty to agitate the issue in manner known to law before the appropriate forum. The writ petition is accordingly disposed of with the aforesaid liberty. Consequently, connected miscellaneous petition is closed. No costs.

05.02.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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To

1. The Managing Director
Tamil Nadu State Transport Corporation Limited
Villupuram Division-II,
Vellore Divisional Office,
Rangapuram, Vellore,
Vellore District



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N.MALA,J.

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