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W.A.No.3150 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.A.No.3150 of 2024
and C.M.P.No.24186 of 2024

Tamilnadu State Transport
Corporation (Coimbatore) Ltd.,
Rep. by its Managing Director,
37, Mettupalayam Road,
Coimbatore-43

... Appellant

Vs.

1.The Inspector of Labour,
Authority under the Tamil Nadu
Industrial Establishments
(Conferment of Permanent Status
to Workmen) Act, 1981,
Coimbatore.

2.G.J.John Kennedy

... Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, against the order passed by a learned Single Judge of this Court made in W.P.No.25390 of 2014 dated 22.06.2023.



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For Appellant : Mr.T.Chandrasekaran

For Respondents : Mr.K.M.Ramesh
Senior Counsel for
Mr.S.Apunu for R2

Mr.A.M.Ayyadurai
Government Advocate for R1

JUDGEMENT

(Judgement of this Court was delivered by M.S.RAMESH.J)

When the first respondent herein who is the authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen), Act 1981 (hereinafter referred to as 'the Act'), had passed an order, conferring permanent status to the workman / second respondent herein in the Appellant's Corporation from 17.09.1998, the date on which he had completed 480 days of continuous service, the Management had challenged the said order before a learned Single Judge of this Court in W.P.No.25390 of 2014. By an order dated 22.06.2023, the writ petition was dismissed, predominantly on the ground that when the Act itself confers certain rights to a workman who had completed 480 days for being granted permanent status, the same cannot be taken by way of 12(3) Settlement.



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2. Mr.T.Chandrasekaran, learned counsel for the appellant made a reference to 12(3) Settlement entered into between the Management and the Union, agreeing that the daily wages employees, who had completed 480 days, would be regularized with effect from 01.09.2005 and therefore, the authority ought not to have granted permanent status retrospectively.

3. Heard Mr.K.M.Ramesh, learned Senior Counsel for Mr.S.Apunu, learned counsel appearing for the second respondent, as well as Mr.A.M.Ayyadurai, learned Government Advocate appearing for the first respondent.

4. Section 3 of the Act provides that, notwithstanding anything contained in any law, for the time being in force, every workman who was in continuous service for a period of 480 days in a period of 24 calender months, shall be made permanent. The second explanation to Section 3 clarifies that the term "Law" in Section 3 would include, *inter alia*, a settlement as well. The very provision itself is self-explanatory, which excludes any settlement for the purpose of conferring the rights under Section 3 of the Act. While that being so, the very 12(3) Settlement itself, insofar as it



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relates to conferment of permanent status with effect from one particular date, is contrary to Section 3 and therefore is *ab initio* void.

5. This apart, the constitutional courts have consistently held that when certain rights have been conferred on a workman, the same cannot be taken away or watered down by way of a settlement, and the same would be illegal. This position was also reiterated by the Hon'ble Division Bench of this Court in the case of *The Management, Tamil Nadu State Transport Corporation (Madurai) Ltd. vs. The Labour Inspector, Virudhunagar and Others* made in W.A(MD).No.768 of 2015 dated 28.11.2019.

6. In this background, we do not find any reasons to interfere with the well considered order of the learned Single Judge. Accordingly, the Writ Appeal stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [M.J.R.,J]

29.10.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu



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