



WEB COPY

W.P.No.23901 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.23901 of 2018

S.Soundarajan

... Petitioner

Vs.

1. Tamil Nadu State Transport Corporation,
Represented by its Managing Director,
Villupuram Division Limited,
Villupuram – 605 401.

2. The Branch Manager,
Tamil Nadu Transport Corporation,
3/137, Salamedu, Villupuram – 605 602.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,
to issue a Writ of Mandamus, directing the respondents to regularize the
service of the petitioner from 21.12.2009.

For Petitioner : Mr.Sunnysheen

For Respondents : Mr.M.Aswin



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W.P.No.23901 of



ORDER

It is the case of the petitioner that he joined as 'Driver' in the respondent Corporation at Villupuram on 26.03.2009 on daily wage basis and the said daily wage was increased from time to time and he is being continued on daily wage basis till date. He also claims that he has worked for a continuous period of more than 240 days in a year, thereby entitling himself for regularization in the services of the respondent by virtue of a settlement entered into between the respondent Corporation and the Union under Section 12(3) of the Industrial Disputes Act, 1947 vide Settlement bearing Ref.No.C.1/055920/2014 dated 13.04.2015, in specific, Paragraph No.4 of the Settlement. The said Paragraph No.4 of the Settlement reads as under:-

“4. Making the post permanent:

a) Employees working on adhoc basic would be converted as Daily wages Employees in their respective sections, when vacancies arose to the permanent post.

b) The services of the daily wages employees who are appointed so would be made permanent provided they rendered 240 days of satisfactory service and it would be implemented every month.”



WEB COPY

W.P.No.23901 of



2. Complaining the inaction on the part of the respondent Corporation in considering the case of the petitioner for appointing him as 'Driver' on permanent basis, the petitioner approached this Court by filing the present Writ Petition seeking a writ of mandamus to direct the respondents to regularize the services of the petitioner as 'Driver'.

3. In response to the notice issued by this Court, the respondent Corporation filed a counter-affidavit admitting the service particulars of the petitioner and also further stating that the services of the petitioner were absorbed to monthly cadre on 11.05.2018 and also admitted continuance of the services of the petitioner in the respondent Corporation. However, it is contended that on mere completion of a continuous period of more than 240 days in a year will not create any vested right for claiming regularization on the ground that the petitioner was not appointed for any sanctioned post, but the petitioner was considered for absorption on daily wage only on the basis of availability of vacancies etc.,



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4. This Court after having perused the Settlement, admittedly entered into between the respondent Corporation and the Union referred to above, is of the considered view that the claim of the respondent Corporation that a continuous period of more than 240 days in a year will not confer any right cannot be accepted in terms of Paragraph No.4 of the above said Settlement. There is definitely right conferred upon the employees who were appointed on temporary basis provided they satisfy the requirements of Paragraph No.4 of the Settlement. Therefore, in the light of the binding Settlement entered into between the parties under Section 12(3) of the Industrial Disputes Act, it is obligatory on the part of the respondent Corporation to consider the case of the petitioner for being appointed on permanent basis in terms of Paragraph No.4 of the said Settlement.

5. In the light of the above, the Writ Petition is disposed of directing the respondents to consider the claim of the petitioner for being appointed on permanent basis in terms of Paragraph No.4 of the Settlement bearing Ref.No.C.1/055920/2014 dated 13.04.2015 and to pass appropriate orders thereon strictly in terms of the said Paragraph No.4 as expeditiously as



possible at any rate within a period of eight weeks from the date of receipt of a copy of this order. Further, it is made clear that the petitioner is at liberty to submit all relevant material in support of his claim within a period of two weeks from the date of receipt of a copy of this order before the respondents to enable them to consider his claim in an appropriate manner. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

31.07.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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Tamil Nadu State Transport Corporation,
Villupuram Division Limited,
Villupuram – 605 401.
2. The Branch Manager,
Tamil Nadu Transport Corporation,
3/137, Salamedu, Villupuram – 605 602.



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MUMMINENI SUDHEER KUMAR, J.

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