



W.A.No.3403 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 15.07.2024

Pronounced On : 07.08.2024

CORAM

THE HON'BLE MRS. JUSTICE J.NISHA BANU

AND

THE HON'BLE MR. JUSTICE P. DHANABAL

W.A.No.3403 of 2023

C.Vijayabalan

... Appellant
/Respondent No.2

Versus

1.The Commissioner
Tiruvannamalai Municipality
Tiruvannamalai

..1st respondent/petitioner

2.The Presiding Officer
The Principal Labour Court
Vellore

...2nd respondents/1st respondent.

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, against the order passed in W.P.No.7922 of 2016 dated 20.07.2023.

For Appellant : M/s. Balan Haridas

For Respondent : Mr.P.Srinivas for R1

J U D G M E N T



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Per J.NISHA BANU, J.

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This writ appeal is filed as against the order passed by the learned Single Judge dated 20.07.2023 passed in W.P.No.7922 of 2016, wherein, it was observed that the petitioner Municipality appointed the employee/second respondent (appellant herein) in the regular vacancy and placed him in time scale of pay; having regard to the subsequent employment, the award passed in I.D.No.72 of 2014 dated 18.11.2014 passed by the Presiding Officer, Vellore, u/s.2A(2) of the I.D.Act was set aside.

2. The main issue raised by the appellant-employee herein is that the relief of regularization granted by the Labour Court ought not to have been interfered with by the learned Single Judge.

3. The learned counsel for the appellant would submit that the Labour court after considering Ex.P.1 to P.9, which are receipts for remitting the amount collected by him came to conclusion that the appellant was working prior to 01.10.1996 and after considering the evidence of M.W.1, the Labour court found that 30 employees employed along with the appellant were regularized. Since the appellant satisfies educational qualification and other



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eligibility condition and when the co-employees were regularized, he would also have got to be regularized.

4. The learned counsel for the appellant further brought to the attention of this court the findings of the Labour court that non-inclusion of the name of the appellant is the fault of the Management and the Management has not included his name since he was litigating. The learned counsel also submitted that the learned Judge erred in holding that the Labour Court has no power to extend the benefit of G.O.Ms.No.125, dated 27.05.1999. The learned counsel in support of his submissions relied on the following decisions:-

1. 1950 SCC 470 [Bharat Bank Ltd., Vs. Employees]
2. 2009 SCC Online Mad 455 [K.Ramaswamy Vs. Warwick Estate and others]
3. 2014 SCC Online Mad 6797 [Amanullah Vs. Chennai Port Trust and another]
4. 2014 (7) SCC 190 [Hari Nandan Prasad and another Vs. Food Corporation of India]
5. Order in W.P.No.1561 of 2020 dated 6.12.2021 [Puthiya Jananayaka Thozhilalar Munani Vs. Power Soap and Abirami Soap works]
6. 1998 (2) L.W.534 [N.Mamundiraj Vs.BHEL]



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7. 2023 SCC Online SC 771 [Om Prakash Banerjee Vs. State of West

WEB COPY Bengal and others]

5. Per contra, Mr.P.Srinivas, learned counsel appearing for the 1st respondent-Municipality would submit that the claim for regularization and permanent status has rightly been rejected by the learned Single Judge since the appellant has not been appointed in a permanent vacancy.

6. Heard both sides and perused the records carefully.

7. In the present case, the Labour court allowed the appellant's I.D and passed the award with a direction to the Municipality that the appellant/employee be made permanent from the day on which the other workers employed with him were made permanent as per G.O.No.125 dated 27.05.1999 and be provided with time scale of pay with back wages and also all the benefits be given to the employee. The Labour court pointed out that when the other employees were taken into service in the year 1999 as others under G.O.dated 27.05.1999, the petitioner could have also represented; since he was continuing the case before the High Court; the nature of government orders could not have been known to the workers; However, the omission of the



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employee from being recommended to be made permanent under G.O.No.125 dated 27.05.1999 and provide scale of pay is a mistake; but as like other workers were made permanent on that day and given time scale of pay along with back wages and these benefits ought to have been given to the petitioner too and therefore it is proper that the petitioner is also made permanent as per the orders in the G.O.dated 27.5.1999 and fix scale of pay from that day and paid back wages and other benefits is proper.

8. Pursuant to the above award in I.D., and order passed in Computation Petition No.6 of 2015, the appellant was appointed in the regular vacancy and he was placed in the time scale of pay. Therefore, when the appellant was appointed in the time scale of pay by the Municipality, in the same manner and position as that of similarly placed employees, the appellant has to be given regularization along with back wages and made permanent. In our considered opinion, the benefit of the regularization given in G.O.Ms.No.125 dated 27.05.1999 cannot be ignored for the appellant alone when the same has been extended to similarly placed employees.

9. Therefore, we do not agree with the view taken in the impugned order



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of the learned Single Judge. The appellant is entitled to receive back wages and benefits from 1991. Accordingly, the writ appeal is allowed. The impugned order dated 20.07.2023 is set aside. The award of the Labour court is restored in respect of backwages and regularization. No costs.

(J.N.B, J.) (P.D.B, J.)

07 .08.2024

Index : Yes /No

Speaking order : Yes /No

Neutral Citation Case : Yes /No

nvsri

To

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**J. NISHA BANU, J.
and
P.DHANABAL,J.**

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Judgment in
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