



W.A(MD)No.1053 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A(MD)No.1053 of 2024

and

CMP(MD)No.7824 of 2024

The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
5th Floor, Kuralagam,
Chennai-600 104.

... Appellant

vs.

1. K.Thangammal

2. P.Rajamani

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 09.03.2023 made in W.P(MD)No.8884 of 2020.

For Appellant : Mr.Raguvaran Gopalan

For Respondents : Mr.S.Karthik

JUDGMENT

(Judgment of the Court was made by **R.SURESH KUMAR, J.**)

That, the respondents had joined the appellant's department i.e.,

Tamil Nadu Khadi and Village Industries Board, Chennai, on 23.03.1988 and



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12.02.1990 respectively. They were working as Senior Spinners at various centres run by the Board. After having worked for long time, since they are entitled to get the benefit under the Act called, The Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, (in short "1981 Act"), they sought for such a conferment of permanent status. The statutory authority under the Act, allowed the claims made by the respondents on 14.10.2019 and accordingly, the 1st respondent would be entitled to get permanent status with effect from 24.03.1990 and the 2nd respondent will get it from 13.02.1992.

2. Challenging the said order of the statutory authority under 1981 Act dated 14.10.2019, though the appellant Board filed writ petition in W.P(MD)No.8884 of 2020, that writ petition was dismissed by the learned Writ Court by order dated 09.03.2023. Aggrieved over the same, the present appeal has been directed.

3. We have heard Mr.Raguvaran Gopalan, learned counsel appearing for the appellant, who would submit that, the issue as to whether the provisions of 1981 Act, would apply to the appellant Board itself is a question which is yet to be decided and in one case, where, the matter has gone to the Division Bench



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of this Court in the matter of **The Management, Tamilnadu Khadi and Village Industries Board, Guindy, Chennai, vs. Industrial Estate General Workers Union, Chennai and another**, [W.A.No.758 of 2016, dated **24.07.2018**], but the question has not been decided and it has been kept open. Therefore, at this juncture, the impugned order passed by the Writ Court unmindful of the said issue by dismissing the writ petition, where, the ground raised by the appellant Board that, the very provisions of 1981 Act itself, would be not made applicable in the case of the respondents since was not considered in proper perspective, is liable to be interfered with, he contended.

4. We have also heard Mr.S.Karthik, learned counsel appearing for the respondents.

5. Insofar as the issue as to whether the provisions of 1981 Act would apply to the present case, that is, against the appellant Board, is no more *res integra*, as in the said case in W.A.No.758 of 2016 dated 24.07.2018, a Co-ordinate Bench of this Court has discussed the matter elaborately and ultimately found that, the benefit of permanency has been conferred on the temporary employees of the appellant Board, and they are entitled to seek the benefit of permanency under the provisions of 1981 Act. The relevant portion of the



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order reads thus:

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"21. In fact the Hon'ble Supreme Court in Hari Nandan Prasad & Another vs. Employer I/R to Management of F.C.I. and another reported in 2014 (2) SCALE 399 had again pointed out the distinction between the powers of the Constitutional Courts under Article 32 and Article 226 and the powers of the Labour Court under specific provisions of the Welfare Legislations. We therefore, see no reason to interfere with the conclusions of the learned Single Judge. Once the Labour Court had found that the employees had worked the workmen have in fact worked for 480 days in 24 calendar months, the conferment of permanent status is almost automatic, in view of the provisions of Section 3 of the Tamil Nadu Industrial Establishments (Conferment of permanent Status to Workmen) 1981 Act.

22. For the foregoing reasons, the Writ Appeal has no merits and hence it is dismissed. However, there will be no order as to costs. Consequently, the connected miscellaneous petition is closed."

6. It is further to be noted that, as against the said order passed by the Division Bench dated 24.07.2018, the appellant Board preferred an SLP in SLP Civil No.28541 of 2018, which was also dismissed by the Hon'ble Supreme Court, by order dated 16.11.2018.

7. Therefore, what has been concluded by the Division Bench by order dated 24.07.2018, has been confirmed by the order of the Hon'ble Supreme Court, cited supra. When that being the case, the learned Single Judge dismissed the said writ petition on the ground that the similar orders conferring the permanency were passed by the statutory authority and the same was put to challenge in W.P.No.1160 of 2009 by the Board, as against which, writ appeal



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was filed in W.A.No.758 of 2016 and it was dismissed by the Division Bench on 24.07.2018. The said order dated 24.07.2018 of the Division Bench has been followed by the learned Judge in the order impugned.

8. Therefore, the said approach of the learned Judge and the conclusion reached by him in dismissing the writ petition through the impugned order, cannot be said to be erroneous and therefore, we are not inclined to interfere with the said decision.

9. Resultantly, the appeal fails. Hence, it is liable to be dismissed. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (G.A.M., J.)
25.06.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

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