



W.P.(MD).No.18511 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.18511 of 2024

and

W.M.P.(MD)No.15726 of 2024

M.Amulraj

...Petitioner

Vs

1.The Managing Director,
Tamil Nadu State Transport Corporation Madurai Limited,
Bypass Road, Madurai – 625 010.

2.The General Manager,
Tamil Nadu State Transport Corporation Madurai Limited,
Bypass Road, Madurai – 625 010. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order in “Ref த.அ.பொ.க./மது/நடு/அ4/2117/2005-54 dated 01.09.2005” which is issued by the second respondent and to quash the same and consequently directing the respondents to confirm the petitioner's service with effect from the date 14.03.2003 on the completion of 240 days of his actual with all service, statutory and monetary benefits.



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For Petitioner : Mr.S.Sivasudhan

For Respondents : Mr.Gladson Michael Rajadurai
Standing Counsel

ORDER

Heard Mr.S.Sivasudhan, learned counsel for the petitioner and Mr.Gladson Michael Rajadurai, learned Standing Counsel for the respondents.

2. This Writ Petition has been filed seeking to quash the order of the second respondent dated 01.09.2005 and consequently direct the respondents to confirm the petitioner's service with effect from the date 14.03.2003 on completion of 240 days of his actual with all service, statutory and monetary benefits.

3. Mr.S.Sivasudhan, learned counsel for the petitioner submitted that the petitioner was appointed as Driver in TNSTC, Thirumangalam branch, Madurai from 25.05.2002 and he has completed 240 days of his actual service on 14.03.2003. However, the second respondent vide impugned order dated confirmed the petitioner's service only with effect from 01.09.2005. Challenging the same, this writ petition is filed.



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4. As per Section 12(3) of Industrial Disputes Act, 1947, dated 25.09.1986, it is agreed between the Management and the Workers that the regularization can be made on completion of 240 days of continuous service in a year.

5. Similar issue has already been dealt by this Court in a writ petition in W.P(MD) No.9829 of 2024, wherein, this Court has passed the order by following the earlier orders passed in W.P.(MD) No.2652 of 2008 etc., Batch. For the sake of clarity, the operative portion of the above order is extracted hereunder:

“35. After referring to various Judgments on this point, this Court in W.A.Nos.2871 and 2872 of 2018, dated 30.09.2019 (The Managing Director, Tamil Nadu State Transport Corporation Limited, Coimbatore Division, Erode Region, Chennimalai Road, Erode) concluded that statutory right of the respondents under Section 3(1) of the Act, 1981, prevails over any settlement.

36. Therefore, in the considered view of this Court, it is not necessary that a settlement should be declared as invalid for getting the statutory benefit under Section 3(1)



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of the Act, 1981. This Court respectfully differs from the views expressed in W.P(MD)No.3086 of 2011, dated 14.10.2011 (P.Raja and others Vs. The Management, Tamil Nadu State Transport Corporation Limited, Madurai and others) that the workmen are bound by the terms of the settlement and they cannot file Writ Petition. When the terms of the settlement is not enforced and permanent status is not conferred under Section 3(1) of the Act, 1981, the affected workman can always approach the Court for appropriate remedy. It is seen from the typedset of papers filed by the petitioners that the daily wage drivers, who joined service after the petitioners 2 to 16 in the year 2007 were given permanency immediately after the completion of 240 days of continuous service in a year by proceedings in Paarvai Nirvagam/A4/1865/06, dated 13.04.2009. When juniors of the petitioners are made permanent, immediately on the completion of 240 days of continuous service in a year, it is unfortunate that the petitioners' case was not considered favourably.

37. The other two Judgments relied on by the learned counsel appearing for the respondents 1 and 2 viz., (2004) 3 CTC 1 (P.Pitchumani and others Vs. The Management of Sri Chakra Tyres Limited and others) and 2020-IV-LLJ-20 (Royal Enfield Employees Union, Represented by General Secretary, Chennai Vs. Government of Tamil Nadu, Represented by Secretary



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Labour and Employment Department, Chennai and others)
for the proposition that the petitioners have to approach only the Labour Court and cannot straightaway invoke the jurisdiction of this Court under Article 226 of the Constitution of India, may have some force in it. However, the petitioners 2 to 16 have been pursuing their remedy before the third respondent and before this Court from the year 2008. It is clearly established that the petitioners 2 to 16 have legal right for permanent status on completion of 240 days of satisfactory service as per the settlement entered in the year 1986, 1989 and 1992 and as per Section 3(1) of the Act. Therefore, at this distant point of time, this Court does not want to drive the petitioners 2 to 16 back to square one and direct them to raise an Industrial Dispute before an appropriate forum. In view of clear and well-founded statutory right available to the petitioner, the infringement of right by the respondents 1 and 2 Corporation cannot be allowed to sustain.”

6. The *Ratio Decidendi* of the above case is squarely applicable to the present and hence, the impugned order is liable to be set aside and the petitioner deserves to be given with the same relief.



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7. In view of the above reasons, this writ petition stands **allowed** and the impugned order in Ref த.அ.பொ.க./மது/நடு/அ4/2117/2005-54 dated 01.09.2005 is hereby set aside. The respondents are directed to confirm the petitioner's service with effect from date of completion of 240 days of his actual service with all service and statutory benefits. With regard to the claim of monetary benefits, considering the financial implications that may be caused to the Transport Corporation, the monetary benefits is permitted to accrue only from the date of passing of this order. No costs. Consequently, connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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WEB COPY **To:**

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Byepass Road, Madurai – 625 010.
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Tamil Nadu State Transport Corporation Madurai Limited,
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R.N.MANJULA, J.

Nsr

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