



W.A.(MD) Nos.474 to 477 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) Nos.474 to 477 of 2015

and

M.P.(MD).Nos.2, 2, 2 & 2 of 2015

W.A.(MD).No.474 of 2015:

The Management,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli Division,
Tirunelveli.

... Appellant / REspondent

Vs.

M.Kalipandian

... Respondent / Petitioner

Prayer: Appeal filed under Clause 15 of Letters Patent Act to allow this Writ Appeal by setting aside the order passed in W.P.(MD).No.15919 of 2012 dated 20.08.2014 on the file of this Court.

For Appellant : Mr.Veerakathiravan,
Additional Advocate General
for Mr.K.Sathya Singh

For Respondent : Mr.M.Kumar



W.A.(MD) Nos.474 to 477 of 2015

W.A.(MD).No.475 of 2015:

The Management through the General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Region,
Vannarpettai,
Tirunelveli.

... Appellant / Writ Petitioner

Vs.

1. The Inspector of Labour,
Labour Department,
Tirunelveli.

... Respondent / 1st Respondent

2. P.Kumar

... Respondent / 2nd Respondent

Prayer: Appeal filed under Clause 15 of Letters Patent Act to allow this Writ Appeal by setting aside the order passed in W.P.(MD).No.9063 of 2013 dated 20.08.2014 on the file of this Court.

For Appellant : Mr.Veerakathiravan,
Additional Advocate General
for Mr.K.Sathya Singh

For R-1 : Mr.N.Muthuvijayan,
Special Government Pleader

For R-2 : Mr.M.Kumar

W.A.(MD).No.476 of 2015:

The Management,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli Division,
Tirunelveli.

... Appellant / Respondent



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Vs.

P.Kumar

... Respondent / Petitioner

Prayer: Appeal filed under Clause 15 of Letters Patent Act to allow this Writ Appeal by setting aside the order passed in W.P.(MD).No.15918 of 2012 dated 20.08.2014 on the file of this Court.

For Appellant : Mr.Veerakathiravan,
Additional Advocate General
for Mr.K.Sathya Singh

For Respondent : Mr.M.Kumar

W.A.(MD).No.477 of 2015:

The Management, through General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli Division,
Tirunelveli.

... Appellant / Respondent

Vs.

1. The Inspector of Labour,
Labour Department,
Tirunelveli.

...Respondent / 1st Respondent

2. M.Kalipandian

... Respondent / 2nd Respondent

Prayer: Appeal filed under Clause 15 of Letters Patent Act to allow this Writ Appeal by setting aside the order passed in W.P.(MD).No.9066 of 2013 dated 20.08.2014 on the file of this Court.



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For Appellant : Mr.Veerakathiravan,
Additional Advocate General
for Mr.K.Sathya Singh

For R-1 : Mr.N.Muthuvijayan,
Special Government Pleader

For R-2 : Mr.M.Kumar

COMMON JUDGMENT

(Common Judgment of the Court was delivered by **N.SESHASAYEE, J.**)

As outline earlier, the Writ Appeals in W.A.(MD).Nos.475 & 477 of 2015 arise out of a challenge to an order passed by the Inspector constituted under the Tamil Nadu Industrial Establishments (Conferment of permanent Status to Workmen) Act, 1981 (hereinafter referred as “the said Act”).

2. Heard the learned counsel on either side.

3. The twin questions of the issue involved in those Writ Appeals is what is the extent of authority which the Inspector is vested with under the said Act, which enabled him to pass an order directing the conferment of permanent



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status. The Scheme of the said Act is closely read under Section 3 of the said Act and it only makes a declaratory statement to the effect that notwithstanding anything contained any other law for the time being in force, every workmen, who is continuous in service for a stipulated period within a stipulated number of months in an industrial establishment shall be made permanent and the appointment of Inspector is provided under Section 4 of the said Act thereof and his powers are delineated under Section 5 of the said Act. His powers read with the relevant provisions made in the Rules only envisages him to inspect the industrial premises to ascertain if the employer is maintaining the registers as stipulated under the said Act or has been filing his returns as required for. Under Section 6 of the said Act, a penalty is provided for which an employer might have to pay if he refuses to make permanent any of those employees who are entitled to be made permanent in terms thereof.

4. What to be deduced from the above is that a statutory duty is cast on the employer to make permanent those employees, who are entitled for the benefit under the said Act and any employer would defuse the same is



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exposed to penal consequences under Section 10 of the said Act. Nowhere, the said Act contemplates that in cases where an employer fails to make permanent any of the employees, who are eligible to be made permanent, to approach the Inspector. For an adjudication on the issue, this aspect is no more *res integra* as it is covered by the Division Bench of this Court ***in R.Ashok and Others vs. Chairman, Tamil Nadu Generation and Distribution Corporation Ltd. and Others*** (2013 2 LLJ 562). The relevant paragraph in the said Judgment is extracted hereunder:

“8. The Inspector of Labour, Karur, has no adjudicatory power. He has been invested with only a limited power of enquiring the petitions preferred to him. He has no power to direct the respondents to make the appellants permanent. He has no judicial or quasi judicial power to adjudicate the claim of the appellants, namely, make them permanent. It is a dispute to be adjudicated upon by the Forums constituted under the Industrial Disputes Act, 1947. The appellants have to seek their remedy before the Industrial Tribunal, Chennai. Already with regard to similar



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claim, I.D. No. 106 of 2000 is pending before the Industrial Tribunal, Chennai, as between the Tamil Nadu Electricity Board and similar workers. The petitioners are contract labourers employed by independent contractors. There is no employer-employee relationship between them and the Board. They have no proof to show that they are the labourers of the Board. They cannot rely on certificates issued by some incompetent Officers of the Electricity Board. Board's Recruitment depends on holding of prescribed qualification for various categories of posts and also rules of Reservation.”

5. This Court is in agreement with a proposition of law as declared by the earlier Bench in ***R.Ashok's Case*** and the remedy open to the workmen is also spelt out therein which to repeat is that an aggrieved workmen should raise a dispute under the said Act. That precisely is a subject matter in the other two Writ Appeals in W.A.(MD).Nos.474 and 476 of 2015.



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6. Turning to these Writ Appeals inasmuch as this Court has found that the Inspector constituted under the said Act has no authority vested in him to adjudicate the right of a workman to be conferred with a permanent status, such an order of the Inspector becomes a nullity in law. This, therefore, implies W.A.(MD).Nos.475 and 477 of 2015 are required to be allowed by this Court.

7. Turning to other two Appeals in W.A.(MD).Nos.474 and 476 of 2015 are concerned, the learned Single Judge interfered with the order of the Labour Court, dated 17.10.2012, essentially on the ground that in as much as the Inspector constituted under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (the subject matter of the earlier two Writ Petitions in W.P.(MD).Nos.9063 and 9066 of 2013), the Labour Court does not have an authority to go into the question. Since this Court has now found that the very order passed by the Inspector has no legal consequence necessarily, the line of reasoning of the learned Single Judge cannot be considered to be correct. This implies these W.A.(MD).Nos. 474 and 476 of 2015 have to be allowed and in view of these matter, the



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learned Single Judge has not gone into the merit of the line of reasoning of the Labour Court which is to the effect that the writ petitioners are not workmen within the meaning of Section 2-(s) of the Industrial Disputes Act, 1947 and the same need to be reconsidered.

8. This Court accordingly allowed all these Writ Appeals and remand the Writ Petitions in W.P.(MD).Nos.15918 ad 15919 of 2012 back to the learned Single Judge for reconsideration on merits. No costs. Consequently, connected miscellaneous petitions are closed.

(N.S.S., J.)

(P.V.M., J.)

24.04.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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