



W.P.(MD).No.21074 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.21074 of 2021

and

W.M.P(MD)No.17673 of 2021

T.Christopher

... Petitioner

Vs.

1.The Assistant Commissioner of Labour (Enforcement),
[The Authority under the Tamil Nadu Industrial
(Conferment of Permanent Status to Workman)Act, 1981],
Nagercoil.

2.The Professor/Head of the Department,
Horticultural Research Station,
Pechiparai,
Kanyakumari District.

3.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore-641 003.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the 1st respondent, dated 30.09.2020 in Na. Ka.No.199/2019, as amended by the 1st respondent in the order, dated 12.10.2020, quash the same and consequently direct the 1st respondent to take the petition filed by the petitioner U/S. 5 of the Tamil Nadu Industrial



W.P.(MD).No.21074 of 2021

Establishments (Conferment of Permanent Status to Workman) Act, 1981 into file and to enquire and decide the same on merits in accordance with law.

For Petitioner : Mr.S.Arunachalam
For R1 : Mr.D.Gandhiraj
Special Government Pleader
For R2 & R3 : Mr.A.Thirumurthy

ORDER

The present writ petition has been filed to call for the records relating to the order of the 1st respondent, dated 30.09.2020 in Na. Ka.No.199/2019, as amended by the 1st respondent in the order, dated 12.10.2020, quash the same and consequently direct the 1st respondent to take the petition filed by the petitioner U/S. 5 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981 into file and to enquire and decide the same on merits in accordance with law.

2. The petitioner possess M.Com and Diploma in Computer Management. The 3rd respondent recruited him for the post of Clerk from 01.10.2014. He was working under the control of Professor / Head of Horticultural Research Station who is the Head of the 2nd respondent station. He



W.P.(MD).No.21074 of 2021

was given the nomenclature as contractual / casual labour. Since he was continuously working without any break from the date of his joining and completed 480 days of continuous service within 24 calendar months for the period from 01.10.2014 to 30.09.2016., he became eligible to be conferred with permanent status by the 2nd respondent. However, he was not conferred with permanent status despite continuing 480 days of continuous service within 24 calendar months from the date of his joining i.e., on 01.10.2014. Hence, he was forced to approach the 1st respondent authority under Section 5 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981. By filing a petition, dated 08.02.2019 seeking to direct the 2nd and 3rd respondents to confer permanent status along with all benefits. The 1st respondent issued notice to the 2nd and 3rd respondents and the 2nd and 3rd respondents duly filed counter statement before the 1st respondent. However, even before giving opportunity of letting in evidence by the respective parties, the said petition filed by the petitioner came to be rejected at the threshold by the impugned order, dated 30.09.2020 as amended by the 1st respondent vide order, dated 12.10.2010. Challenging the same, this writ petition has been filed.



W.P.(MD).No.21074 of 2021

WEB COPY

3. The learned counsel for the petitioner relying upon the judgment passed by the Hon'ble Division Bench of this Court in W.A(MD)No.1235 of 2011, dated 11.07.2017 submitted that the 1st respondent ought not to have dismissed the application made by the petitioner at the threshold on the ground of maintainability of the same under the provision of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981, when the maintainability of the same has already been upheld by the judgment of the Hon'ble Division Bench of this Court. He categorically contended that the 1st respondent ought to have given opportunity to both the parties to produce their documentary as well as oral evidence and thereafter, adjudicated the matter. On that basis, he pressed for allowing the writ petition.

4. The 3rd respondent has filed a counter and the learned counsel for the respondents 2 and 3 drew my attention to the order passed by this Court in W.P(MD)Nos.14983 of 2010 and batch, dated 09.09.2019, in which this Court was pleased to dismiss the claim of similarly placed employees. Relying upon the said order, he pressed for dismissal of the writ petition.

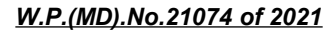


W.P.(MD).No.21074 of 2021

WEB COPY

5. Heard the learned counsels on either side and perused the material available on record.

6. I am of the considered view that the argument of the learned counsel appearing for the petitioner cannot be negated for the reason that the petition filed by the petitioner before the 1st respondent under Section 5 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981 came to be rejected by the 1st respondent at the threshold without going into the merits of the case on the ground of maintainability. In view of the same, I am inclined to quash the impugned order, dated dated 30.09.2020 in Na. Ka.No.199/2019, as amended by the 1st respondent in the order, dated 12.10.2020 and remand back the same to the 1st respondent with a precise direction to conclude the adjudication of the same by going into the merits of the case and pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of copy of this order, after giving opportunity to both the parties to let in oral and documentary evidence. It is made clear that the 1st respondent can decide the issue before him in accordance with law including the maintainability of the said petition.



Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes

To

The Assistant Commissioner of Labour (Enforcement),
[The Authority under the Tamil Nadu Industrial
(Conferment of Permanent Status to Workman) Act, 1981],
Nagercoil.



WEB COPY



W.P.(MD).No.21074 of 2021

L.VICTORIA GOWRI, J.

gbg

W.P.(MD).No.21074 of 2021

19.07.2024