



W.M.P(MD)Nos.18836 & 18850 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Saturday, the Nineteenth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

W.M.P(MD)Nos.18836 & 18850 of 2024

in

W.P(MD)Nos.12824 & 12823 of 2023

K.MARIAPPAN

... PETITIONER/2nd RESPONDENT/
2nd RESPONDENT
IN WMP(MD) No.18836/2024

V.PECHIMUTHU

... PETITIONER/2nd RESPONDENT/
2nd RESPONDENT
IN WMP(MD) No.18850/2024

Vs

1 THE EXECUTIVE OFFICER
SEITHUR SELECTION GRADE TOWN PANCHAYAT,
SEITHUR,
VIRUDHUNAGAR DISTRICT.

... 1st RESPONDENT/PETITIONER/
PETITIONER
IN BOTH PETITIONS

2 THE ASSISTANT COMMISSIONER OF LABOUR
(ENFORCEMENT) AUTHORITY UNDER TAMIL NADU
CONFERMENT OF PERMANENT STATUS) ACT, 1981,
VIRUDHUNAGAR.

... 2nd RESPONDENT/1st RESPONDENT/
1st RESPONDENT
IN BOTH PETITIONS



W.M.P(MD)Nos.18836 & 18850 of 2024

Prayer in WMP(MD). 18836/ 2024 :

Writ Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Vacate the Interim Stay order dated 02.06.2023 passed in W.M.P.(MD).No.10825 of 2023 in W.P.(MD).No.12824 of 2023 and thus render justice.

Prayer in WP(MD). 12824/ 2023 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to calling for the records relating to the impugned order passed by the 1st respondent dated 12.10.2022 in Na.Ka.No. 1854-2/2019 and quash the same.

Prayer in WMP(MD). 18850/ 2024 :

To vacate the Interim Stay order dated 02.06.2023 passed in WMP (MD) No.10822 of 2023 in WP (MD) No.12823 of 2023 and thus render justice.

Prayer in WP(MD). 12823/ 2023 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to calling for the records relating to the impugned order passed by the 1st respondent dated 12.10.2022 in Na.Ka.No. 1854-1/2019 and quash the same.

ORDER : These Writ Miscellaneous Petitions coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.I.SUTHAKARAN, Advocate for the petitioner in both Petitions and of Mr.A.BASKARAN, Additional Government Pleader on behalf of the Respondents in both Petitions, the court made the following order:-

These application are filed seeking to vacate the interim order passed by this Court in W.M.P(MD)Nos.10825 and 10822 of 2023 in W.P(MD)Nos.12824 and 12823 of 2023 dated 02.06.2023. The writ petitions were filed by the respondent/Executive Officer of Seithur Selection Grade Town Panchayat as against the orders passed by the Assistant Commissioner of Labour (Enforcement) Authority/second respondent



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under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

2.The case of the petitioners is that they are working in the writ petitioner Town Panchayat from the year 2005 and they have completed more than 480 days as required under Section 3 of the Act and have filed necessary applications under Section 3 of the Act. The Assistant Commissioner of Labour (Enforcement) Authority by his order dated 12.10.2022 admitted the petitioners' case and directed the respondent Town Panchayat to regularize the employment of the petitioners as per Section 3 of the Act w.e.f completion of 480 days.

3.The learned Counsel for the petitioners/workmen submits that they were working in the Town Panchayat from the year 2005 and they have been appointed as per the resolution of the Town Panchayat and they have been paid salary from the year 2005. Therefore, on completion of 480 working days, within a period of two years, they are entitled for conferment of permanent status, however the same has not been conferred on them. Therefore, necessary applications have been filed and there is no reason to interfere with the orders of the Assistant Commissioner of Labour (Enforcement) Authority.

4.The learned Additional Government Pleader submits that Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act would



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be applicable only for the workmen, who are working in the industrial establishment.

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He further submits that that the Town Panchayat cannot be treated as an industrial establishment. Therefore, the petitioners are not entitled for conferment of permanent status.

5.The learned Counsel appearing for the petitioners/workmen has relied on the common judgment of this Court rendered in W.A(MD)Nos.1163 and 1164 of 2016, dated 22.04.2022 and submitted that a similar application filed by the employees of the Corporation has been allowed by the Assistant Commissioner of Labour under the Act and they have been conferred with permanent status and that order was challenged before this Court. The Division Bench of this Court has held that they are entitled for conferment of permanent status. If an employee under the Corporation is entitled for the relief of conferment of permanent status then, the employee of the Town Panchayat is also similarly placed, entitled for the same.

6.The learned Additional Government Pleader submits that as against the judgment rendered in W.A(MD)Nos.1163 and 1164 of 2016, dated 22.04.2022, the Government has preferred a SLP in Special Leave Petition (Civil) Diary No.27457 of 2022, before the Hon'ble Supreme Court, the same has been entertained and notice has been ordered.

7.The learned Counsel for the petitioners submits that the Hon'ble Supreme



Court has not granted interim order in the said SLP. Therefore, the judgment rendered by the Hon'ble Division Bench of this Court holds good and the petitioners/workmen are entitled for the relief.

8.This Court has considered the rival submissions made.

9.Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act is extracted as under:

"3. Conferment of permanent status to workmen.

(1)Notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty-four calendar months in an industrial establishment shall be made permanent.

A workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike, which is not illegal, or a lock-out [Omitted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2000 (Tamil Nadu Act 48 of 2000).], or a cessation of work which is not due to any fault on the part of the workman.



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Explanation [I][Explanation was renumbered as Explanation I by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985).] - [For the purposes of computing the continuous service referred to in sub-sections (1) and (2), a workman shall be deemed to be in continuous service during the days on which][Substituted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985).]-

(i)he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946) or under any other law applicable to the industrial establishment;

(ii)he has been on leave with full wages, earned in the course of this employment; and

(iii)in the case of a female, she has been on maternity leave; so however, that the total period of such maternity leave does not exceed twelve weeks."

10.This Act would be applicable for a workman, who is in continuous service for 480 days in a period of 24 calender month in an industrial establishment. Section



2 (3) of the Act itself defines the industrial establishment as under:

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"3."industrial establishment" means-

(a)a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (Central Act LXIII of 1948) or any place which is deemed to be a factory under sub-section (2) of section 85 of that Act; or

(b)a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951); or

(c)a motor transport undertaking as defined in clause (g) of section 2 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961); or

(d)a beedi industrial premises as defined in clause (i) of section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (Central Act 32 of 1966); or

(e)an establishment as defined in clause (6) of section of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947); or

(f)a catering establishment as defined in clause (1) of section 2 of the Tamil Nadu Catering Establishments Act, 1958 (Tamil Nadu Act XIII of 1958);
or

(g)any other establishment which the Government may, by notification, declare to be an industrial establishment for the purpose of this Act. "



The workman is also defined in the Section 2(4) of the Act, which runs as follows:

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"4."workman', means any person employed in any industrial establishment to do any skilled or unskilled, manual supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied [and includes a badli workman,][Inserted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2000 (Tamil Nadu Act 48 of 2000).]but does not include any such person,-

(a)who is employed in the police service or as an officer or, other employee of a prison; or

(b)who is employed mainly in a managerial or administrative capacity; or

(c)who, being employed in a supervisory capacity, [draws wages exceeding three thousand and five hundred rupees per mensem]

[Substituted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1999 (Tamil Nadu Act 17 of 1999).]or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature. "

11.Therefore, this Court is of the view that the Town Panchayat would not come



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under the industrial establishment as defined in Section 2(3) of the Act and this Court
is not inclined to entertain these petitions. Accordingly, these petitions stand
dismissed.

sd/-
19/10/2024

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/11/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LR
TO
1 THE EXECUTIVE OFFICER
SEITHUR SELECTION GRADE TOWN PANCHAYAT,
SEITHUR,
VIRUDHUNAGAR DISTRICT.

2 THE ASSISTANT COMMISSIONER OF LABOUR
(ENFORCEMENT) AUTHORITY UNDER TAMIL NADU
CONFERMENT OF PERMANENT STATUS) ACT, 1981,
VIRUDHUNAGAR.

+2 cc to Mr.I.SUTHAKARAN, Advocate, SR.No.12755 & 12756 (I) DT.19/10/2024

ORDER IN
W.M.P(MD)Nos.18836 & 18850 of 2024
in
W.P(MD)Nos.12824 & 12823 of 2023
Date :19/10/2024

SA/SKN/SAR. /12.11.2024/9P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.