



W.P.No.2699 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.2699 of 2019

and

W.M.P.No.2951 of 2019

Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam,
Chennai – 600 002.

... Petitioner

Vs.

Nethaji Pokkuvarathu Thozhilalargal,
Pathukappu Thozhir Sangam,
Rep. by the Assistant Secretary,
Reg.No.1292/08/CBE,
No.94, Puliuir Kulam,
Coimbatore – 49,
Branch Office,
No.18, Kolam Thottam,
Madhavaram High Road (North),
Perambur, Chennai – 600 011.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the order dated 29.06.2018 passed by the First Additional Labour Court, Chennai in I.D.No.145 of 2016 and quash the same.



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For Petitioner : Mr.C.Gouthamaraj

For Respondents : Mr.K.S.V.Prasad

ORDER

This Writ Petition is filed challenging the award passed by the learned I Additional Labour Court, Chennai in I.D.No.145 of 2016 dated 29.06.2018.

2. The respondent/Sangam was espousing the cause of a driver namely Sagadevan and the said driver was initially appointed as temporary driver on 19.02.1997 in the petitioner corporation. According to the petitioner, he was employed only when need arose in the petitioner corporation. As per the policy of the petitioner corporation, in order to regularize the services of a temporary driver, he should have worked for 240 days in a calender year and the services should be to the satisfaction of the petitioner corporation. It is the case of the petitioner that the said driver had not completed 240 days continuously from 19.02.1997. The said driver had caused a fatal accident and in that record, a charge memo dated 14.10.1998 was issued to him. Thereafter, his services were



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eschewed. On 16.12.1999, he was taken back into service as a new entrant. According to the petitioner, as per 12(3) settlement reached with the sangam, the petitioner agreed to regularise the services of 2122 temporary employees who had satisfactorily completed 240 working days in a year. Accordingly, the services of the said driver Sagadevan was regularized with effect from 01.07.2006. After a gap of nearly a decade, the respondent/Sangam raised an industrial dispute praying to regularize the services of Sagadevan from the date of initial service i.e., 19.02.1997. The said issue was taken on file by the I Additional Labour Court, Chennai and on an adjudication, the labour court opined that the said driver Sagadevan should be regularised from 16.12.1999 instead of 19.02.1997. The said order is assailed in this writ petition by the petitioner corporation.

3. Learned counsel appearing for the petitioner corporation at the outset submitted that the said driver Sagadevan had individually approached this Court by filing writ petitions seeking regularisation. Though the said execution mentioned in the dispute, the same was not discussed by the labour court. He further submitted that it is not as if the



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service of the said driver was satisfactory. He has caused a fatal accident and the petitioner corporation had paid the compensation to the legal heirs of the deceased. Since he was involved in a rash and negligent driving, his services were ousted. After a few years, the said driver again made a plea before the petitioner corporation to take him back into service. The petitioner corporation took him as a new entrant. After completion of 240 working days, his services were regularized. Therefore, he submitted that the driver cannot claim the period of temporary service that he has rendered to be counted for regularisation. Therefore, he prayed that this Court set aside the award passed by the labour court and allow this writ petition.

4. Learned counsel appearing for the respondent justified the award and submitted that the labour court has taken into consideration the fact that the petitioner corporation has failed to produce the attendance register to show the employment of the driver during the initial period of service. Therefore, he submitted that the writ petition may be rejected.

5. Heard the learned counsel appearing for the parties and also



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perused the materials available on record.

6. It is seen from the records that the driver had initially filed two writ petitions before this court, one in the year 2012 and another in the year 2013 seeking similar relief. In W.P.No.20061 of 2012 and other writ petitions, the driver along with others have approached this court seeking regularisation of service and this court vide order dated 03.08.2012 disposed of the writ petitions giving liberty to the workmen therein to submit individual representations seeking regularisation from the date of completion of 240 days of service. The driver thereafter filed another writ petition in W.P.No.17093 of 2013 seeking the very same relief. The driver sought leave of this court to withdraw the said writ petition with liberty to approach the competent authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act. The said writ petition was dismissed as withdrawn with the liberty as sought for. Though the two writ petitions were referred to by the labour court, the labour court not posted any question to the Sangam as to what happened thereafter. It is not known whether he had approached the said authority and whether his request was accepted or rejected. Conveniently,



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the driver had filed the claim through the respondent/Sangam. The labour court has not taken into consideration the previous orders passed by this Court. Indeed, the labour court has passed an order in favour of the driver on a simple point that the petitioner corporation has failed to produce the attendant register pertaining to the initial service of the driver. It is to be noted here that this is not a case of simple ouster and the driver had caused death of a person because of his rash and negligent driving. For that reason, he was denied employment and after the criminal case ended in acquittal, he was taken in as a new entrant. Intervening the period when the driver was not in service cannot be taken into consideration for counting service. The labour court has grossly erred in considering the prayer made by the respondent/Sangam and fixing the date 16.12.1999 as the date of regularisation of the driver. The said order definitely needs interference by this court and accordingly, the award dated 29.06.2018 passed by the First Additional Labour Court, Chennai in I.D.No.145 of 2016 is set aside.

7. In the result, this Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.



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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

- 1.The First Additional Labour Court,
Chennai.
- 2.The Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam,
Chennai – 600 002.



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M.DHANDAPANI, J.

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