

W.P.No.27391 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

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RESERVED ON : 24.04.2025
PRONOUNCED ON : 29.05.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.No.27391 of 2021

and

W.M.P.No. 28903 of 2021

The Managing Director,
M/s. State Express Transport Corporation Ltd (Tamilnadu),
No.2, Pallavan Salai,
Chennai – 600 002. Petitioner

Vs.

1.N. Jayakumar,
S/o. T.M.Natesa Naicker,
No.505, Sathiyamoorthy Street,
Nazarethpet, Poonamallee,
Chennai – 600 123.

2. Inspector of Labour,
Officer of the Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act,
3rd Circle, Chennai – 600 035. ... Respondents

Prayer in W.P.

To issue a Writ or direction particularly in the nature of a Writ of Certiorari,



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calling for the records relating to the impugned order dated 21.06.2019 passed by the 2nd Respondent in Petition No. E/674 of 2018 and to quash the same and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in W.M.P

To pass an order of stay for further pursuant of the operation of the impugned Order passed by the 2nd Respondent in Petition No. E/674 of 2018 dated 21.06.2019, pending disposal of the main Writ Petition and pass such further or other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case and thus render justice.

Appearance of Parties:

For Petitioner : M/s. K.Kathiresan and K.Ponraj, Advocates

For Respondent 1: Mr.S.Mohan, Advocate

For Respondent 2: Mr.R.Kumaravel, AGP

J U D G M E N T

Heard.

2.The petitioner is a State-owned Transport Corporation. In the present writ petition, the petitioner challenges the order dated 21.06.2019 passed by the second respondent, whereby the first respondent was held entitled to reckon his services rendered from February 1990 to 18.02.1999, and was directed to be



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regularised with all attendant benefits, including seniority. When the writ petition was taken up on 03.01.2022, notice was ordered. Thereafter, when the matter was listed on 06.11.2024, it was directed to be referred to the Mediation Centre. However, as no settlement could be arrived at, the matter has now been reposted before this Court for final adjudication.

3.The records indicate that the 1st respondent was initially appointed as a Trainee with effect from 12.11.1997 and was subsequently regularised as a permanent employee with effect from 19.02.1999. He retired from service on 31.03.2017. Prior to his retirement, he submitted a petition dated 12.02.2017 before the 2nd respondent, seeking to have his service from February 1990 to 18.02.1999 counted as regular service in the post of Junior Engineer, and to be granted all consequential benefits. Pursuant to notice issued by the second respondent, the petitioner filed a counter statement (undated), and the 1st respondent submitted a rejoinder dated Nil, November 2018.

4.The authority rejected the contention regarding the delayed approach of the 1st respondent and, as a matter of fact, found that he had worked for 240



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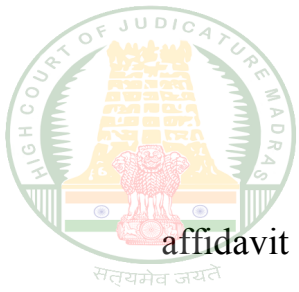
days during the period from 21.07.1988 to 20.07.1989. It was also observed

that there was no agreement on record to suggest that the said period had been relinquished by the 1st respondent. Learned counsel for the 1st respondent filed a typed set of documents, which included a certificate evidencing completion of training, a letter pertaining to apprenticeship training, the appointment order as a Trainee, and the order regularising his services as a Junior Engineer. The compilation also contained a copy of the Government letter dated 17.09.1997, which had been relied upon by the 2nd respondent.

5. In paragraph 2 of the said letter, the Government issued the following directive:

“In as much as the petitioner is a first class diploma holder in Mechanical Engineering hailing from a Most Backward Community, crossed the age of 37 years and since the persons working in similar capacity as Casual Labourers have been regularized as per G.O.Ms.No.6, Transport dt. 2.1.1990, I am directed to request you to absorb Thiru N.Jayakumar in an appropriate vacant post, for which he is qualified and send proposals to Government for regularization.”

6. The 1st respondent had made continuous representations seeking regularisation of the period of service rendered by him. In paragraph 6 of the



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affidavit filed in support of the writ petition, the petitioner corporation vaguely

contended that the 1st respondent did not fall within the definition of “workman” under Section 2(s) of the Industrial Disputes Act, 1947, and was therefore not entitled to the benefits under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. This contention was appropriately addressed by the 1st respondent in paragraph 6 of his counter affidavit dated 22.11.2022. With respect to the plea that the matter was covered by a settlement under Section 18(1) of the Industrial Disputes Act, reliance was rightly placed by the 1st respondent on the non obstante clause under Section 3(1) of the Permanent Status Act. He also referred to the second Explanation to the said provision, which defines the term “law” to include any award, agreement, settlement, instrument, or contract of service, whether made before or after the commencement of the Act.

7. In view of the above, no case has been made out to warrant interference with the impugned order passed by the second respondent. Accordingly, the writ petition in W.P. No. 27391 of 2021 stands dismissed. The connected miscellaneous petition is also dismissed. However, there shall be no order as to costs.



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NCC : Yes / No

Index : Yes / No

Speaking Order / Non-speaking Order

DR. A.D. MARIA CLETE, J

ay

To

Inspector of Labour,
Officer of the Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act,
3rd Circle, Chennai – 600 035

Pre-Delivery Judgment made in
W.P.No.27391 of 2021

and

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