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W.P.Nos.30808 of 2017, 15904, 15906 to 15908 & 15912 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.30808 of 2017, 15904, 15906 to 15908 & 15912 of 2023

and

WMP.Nos.33736 of 2017, 15217 & 15218 of 2022, 15370, 15372, 15374,
15375, 15378, 23544, 23548, 23549, 23550 of 2023 and 6674, 6680, 6682,
6683 & 6684 of 2024

Tamil Nadu Medical Services Corporation Ltd.,
Rep. by its Managing Director,
No.417, Second Floor, Pantheon Road,
Egmore, Chennai – 600 008.

...Petitioner in all W.P's.

Vs.

- | | |
|---|---|
| 1. S.Arokiathanaraj | ...1 st Respondent in W.P.No.30808 of 2017 |
| 2. J.Suresh Babu | ...Respondent in W.P.No.15904 of 2023 |
| 3. S.Mathan Kumar | ...Respondent in W.P.No.15906 of 2023 |
| 4. S.Annadurai | ...Respondent in W.P.No.15907 of 2023 |
| 5. R.Thanickachalam | ...Respondent in W.P.No.15908 of 2023 |
| 6. C.Seenuvasan | ...Respondent in W.P.No.15912 of 2023 |
| 7. The Presiding Officer,
Labour Court,
Thiruchirappalli. | ...2 nd Respondent in W.P.No.30808 of 2017 |



W.P.Nos.30808 of 2017, 15904, 15906 to 15908 & 15912 of 2023

Prayer in W.P.No.30808 of 2017: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari to quash the impugned Award dated 27.07.2015 in I.D.No.66 of 2008 passed by the 2nd respondent.

Prayer in W.P.No.15904, 15906 to 15908 & 15912 of 2023: Writ Petitions filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari to call for the records of the Orders all dated 22.02.2023 in O.P.Nos.46, 47, 43, 44 & 45 of 2020 respectively passed by the I Addl Labour Court, Chennai and quash the same.

In W.P.No.30808 of 2017:

For Petitioner : Mr.V.Vijaya Narayanan, Sr.C.
for M/s. Shivakumar

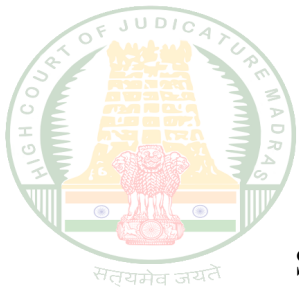
For Respondents : Mr.V.Ajoy Khose, for R1
: R2 – Labour Court

In W.P.No.15904, 15906 to 15908 & 15912 of 2023:

For Petitioner : Mr.ARL.Sundaresan
for M/s. Shivakumar

For Respondent : Mr.N.Prakash, Sr.C
for Mr.K.Sudalaikannu

COMMON ORDER



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Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The present petitions have been filed by the petitioner assailing the order passed by the 2nd respondent directing reinstatement of the respective 1st respondent along with backwages.

3. It is the case of the petitioner that the respective 1st respondent were engaged on casual basis in the petitioner Corporation on need basis. In the course of discharge of their work, the respective 1st respondent did not report for duty and voluntarily abandoned the service of the petitioner. However, assailing that they were orally terminated from service the respective 1st respondent raised ID No.66/2008 u/s 2-A of the Industrial Disputes Act raising a plea that they are entitled for permanency under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act.

4. The respective 1st respondent were members of the Tamil Nadu Medical Services Corporation Employees Welfare Union, and claim was raised by some workmen for grant of permanent status and in the earlier round of litigation in W.P.



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Nos.15236/1998 and 17147/1998 a Division Bench of this Court passed certain directions directing the Union to approach the Inspector of Labour for conferment of permanent status and, accordingly, the matter was agitated before the Inspector of Labour, who, after conducting enquiry, passed order holding that the members of the Union were entitled for permanent status. Against the said order, W.P. No.17133/2001 was filed by the petitioner herein in which, vide common order dated 10.12.2009, a Division Bench of this Court dismissed confirming the order of the Inspector of Labour. Assailing the said order, the matter was taken up before the Apex Court in SLP Nos.7430 and 7431/2010 and the Apex Court remanded the matter to this Court, which is still pending. However, without properly appreciating the aforesaid factual position, the 2nd respondent allowed the dispute in favour of the respective 1st respondent, aggrieved by which the present writ petitions have been filed.

5. Learned senior counsel appearing for the petitioner submitted that the respective respondents have not proved their continuous employment of 240 days and, therefore, they cannot claim the relief of permanency. Further, it is submitted that writ petitions challenging the order of the Inspector of Labour are pending consideration before the Division Bench and without a finality being given to the said cases, the dispute ought not have been decided by the Labour Court and,



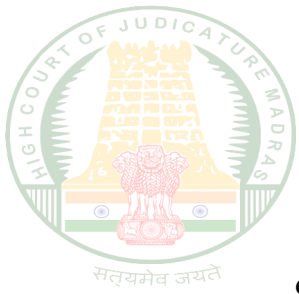
therefore, the said order passed by the court below deserves to be set aside.

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6. Per contra, learned counsel appearing for the respective 2nd respondent submitted that similarly situated persons filed writ appeal before the Apex Court seeking conferment of permanent status, which has been granted in their favour and the said order is squarely applicable to the present case and, therefore, he prays that the petitioner may be directed to implement the award passed by the Apex Court. The copy of the order passed in C.A. No.6511/2024 dated 17.5.2024 is placed before this Court.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing for the petitioner and the learned counsel appearing for the respective 1st respondents and perused the materials available on record.

8. While the petitioner contends that the status of permanency has not yet been decided by the Division Bench of this Court upon remand, in and by which the order of the Inspector of Labour is put in issue, contrarily, it is contended on behalf of the respective 1st respondent that the order passed by the Apex Court in C.A. No.6511/2024 dated 17.5.2024 is squarely applicable and, therefore, the respective 1st respondent are entitled for permanent status.



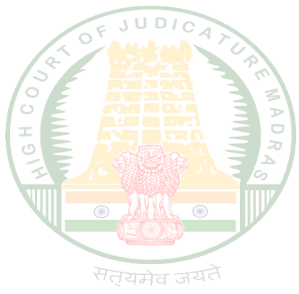
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9. In this regard, a perusal of the order passed by the Apex Court in the ***Tamil Nadu Medical Services Corporation Ltd. – Vs – Tamil Nadu Medical Services Corporation Employees Welfare Union & Anr. (C.A. No.6511/2024 – Dated 17.5.2024)*** reveals that the Apex Court had granted the status of permanency of certain persons, who are similarly placed like the 1st respondent and who are members of the Union in their favour by considering the orders passed by both the Inspector of Labour and the High Court and the Apex Court observed as under :-

“Para 25 to 27”

10. Resultantly, the Apex Court held the grant of permanent status in favour of the workmen and granted the said relief to the workmen.

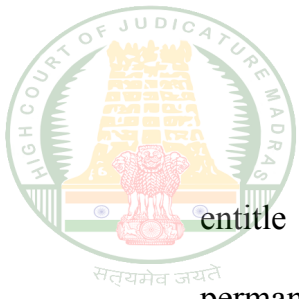
11. However, in the present case, as against the order of the Inspector of Labour granting permanent status to the respective 1st respondent herein, which was approved by this Court, but the matter was remanded back to this Court upon appeal to the Apex Court, which is pending till date. It is to be pointed out that neither there is an order of stay of the order of the Inspector of Labour nor any other direction has been issued by the Apex Court while remanding the matter. Such being the case, the order of the Inspector of Labour survives.



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12. In this backdrop, the petitioner claims that the dispute ought not to have been allowed by the Labour Court directing reinstatement. Though such a contention is advanced, the same does not merit acceptance for the reason that the matter, which is under consideration of the Division Bench of this Court relates to grant of permanency to the workmen and it does not relate to the reinstatement of the workmen. Only for deciding the permanent status of the workmen, the matter is remanded by the Apex Court. Such being the position, the decision of the Labour Court to direct reinstatement of the workmen with continuity of service and backwages cannot be held to be erroneous as the dispute was relatable only to the oral termination of the workmen and it did not relate to grant of permanency, as the grant of permanency was already decided by the Inspector of Labour, which is *sub judice* before this Court before the Division Bench.

13. Further, no grievance is expressed by the petitioner with regard to the order passed by the Labour Court except canvassing the plea that the Labour Court ought to have awaited the order of the Division Bench in the pending writ petition relating to conferment of permanent status. Even in the present case, while the entire sequence of events has been projected by the petitioner, attention of this Court is only drawn to the manner of appointment of the workmen, which according to the petitioner is not through proper recruitment means and, therefore, they are not



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entitled for conferment of permanent status. As stated above, the conferment of permanent status has to be dealt with by the Division Bench in the remand case and not by this Court and, therefore, this Court is not entering into the said issue.

14. In such view of the matter, this Court is of the considered view that no interference is warranted with the order passed by the Labour Court. Accordingly, the order of the Labour Court insofar as reinstatement of the respective 1st respondent workmen with backwages and continuity of service is confirmed. However, insofar as grant of permanency is concerned, the parties are at liberty to work out their remedy before the Division Bench of this Court in the manner known to law in the pending writ petition.

25.04.2025

Note: Issue order copy on 16.07.2025

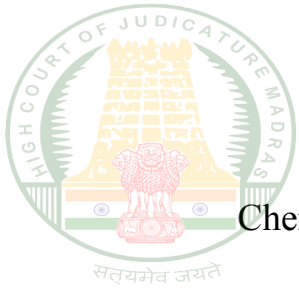
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NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

1. The Presiding Officer,
Labour Court, Thiruchirapalli.
2. The I Additional Labour Court,

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Chennai.

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M.DHANDAPANI, J.

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