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W.P. No.32353 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.32353 of 2022
and W.M.P. No.31742 of 2022

The Management,
AA 332, Perundurai Public Servants
Co-operative Thrift and Credit Society Limited,
represented by its President,
Agraharam Street, Perundurai,
Erode District. .. Petitioner

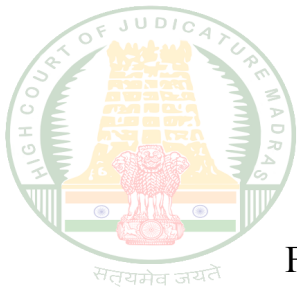
vs.

1. The Inspector of Labour,
Assistant Labour Commissioner (Enforcement) cum
Appropriate Authority as under the
Tamil Nadu Industrial Establishments (Conferment
of Permanent Status to Workmen) Act, 1981.
Erode.

2. P. Senthilkumar S/o.Periyasamy .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records of the order passed by the 1st respondent in Case No.374 of 2021 dated 29.08.2022 and to quash the same

For Petitioner : Mr. L.P. Shanmugasundaram



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For Respondent : Mr. L.S.M. Hasan Fizal [for R1]
Additional Government Pleader

Ms. G. Thilakavathi, Senior Counsel
for Mr. R. Gopinath [for R2]

ORDER

This Writ petition has been filed by the petitioner to quash the order passed by the 1st respondent in Case No.374 of 2021 dated 29.08.2022.

2. The learned counsel appearing for the petitioner would submit that the respondent was appointed as Clerk in the year 1996 on temporary basis for daily wages at Rs.25/- on 06.04.1996. While so, on 20.07.1996, without any leave intimation, he absented himself from duty and again he was appointed as Casual Labour from 20.01.1997. Thereafter, he worked from 20.01.1997 to 16.06.1998. Thereafter, he did not attend duty. He was appointed through Employment Exchange under Rule 149 on temporary basis. He had not worked for 240 days continuously in a year and he has not worked continuously for 480 days in two calendar years. Already the respondent filed a petition before Labour Court, Salem in C.P. No.78 of 2001 and 671 of 2002 for permanent status and the same was dismissed and thereafter, he filed an industrial dispute in I.D. No.21 of 2014 before the Labour Court, Salem and the same was allowed. Against which, the



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petitioner filed a W.P. No.7144 of 2019 and settlement was arrived at before the Lok Adalat and the Lok Adalat award was passed to reinstate the 2nd respondent on the basis of daily wages of Rs.350/-. As far as permanency is concerned, the respondent has to approach the appropriate authorities. The 2nd respondent cannot take advantage of the Lok Adalat Award that he is entitled for permanency. Therefore, the 2nd respondent approached the Authority under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. The Authority allowed the petition and erroneously held that the respondent had continuously worked for more than 480 days from 19.01.1997 to June 1998 and passed an Award by regularizing the service of the 2nd respondent under Section 33(1) of the Act. The order passed by the 1st respondent is without any document to show that the 2nd respondent had worked for 480 days continuously in 24 calendar months. The 2nd respondent was appointed as Casual Labour and he has not worked continuously for 480 days in 24 calendar months and without any proof, the Authority has passed the impugned order and hence the same is liable to be quashed.

3. The learned Senior counsel appearing for the 2nd respondent would



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submit that the 2nd respondent was appointed as jewel appraiser / Clerk on 10.04.1996 and thereafter, he continuously worked till 20.07.1996. From 21.07.1996 to 19.01.1997, he was on medical leave and thereafter, he joined duty on 21.01.1997. While so, on 17.06.1998, the petitioner Management orally terminated the 2nd respondent from service and not allowed to work. Even according to the petitioner, from 20.01.1997 to 16.06.1998 the petitioner has completed the mandatory period of 480 days in 24 calendar months. Therefore, the 2nd respondent is entitled to permanency. But the petitioner Management terminated the service of the 2nd respondent, without any reasons. Therefore, the 2nd respondent raised an industrial dispute before the Labour Court in I.D. No.21 of 2024 and as per the Award passed by the Labour Court, the oral termination order passed by the petitioner Management was set aside and the petitioner was reinstated with 25% backwages. Thereafter, the Management challenged the said order through W.P.No.7144 of 2019, wherein settlement was arrived at between the parties and as per the settlement, the 2nd respondent was reinstated into service on daily wages of Rs.350/-. Thereafter, the 2nd respondent approached the Authority and the Authority after considering the documents submitted by the parties, came to a fair conclusion that from 20.01.1997 to 16.05.1998, the petitioner worked for



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more than 505 days under the petitioner Management, which is covered under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 and even as per the Attendance Register marked as Ex.R.5, the 2nd respondent worked from 1997 to June 1998 and therefore, the order passed by the Authority is based on the documents and hence, the order passed by the 1st respondent is in order and the present Writ petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the 2nd respondent was appointed in the petitioner Management and the same is covered under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. According to the petitioner, the 2nd respondent was appointed as a Casual Labour and he has not worked continuously for 480 days and he is not eligible for permanency. According to the respondent, there is no dispute that the 2nd respondent joined duty on 10.04.1996 and thereafter, he was on leave from 21.07.1996 to 19.01.1997 and thereafter, he



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was again appointed on 20.01.1997 and he worked till 17.06.1998. Now, the only question is whether the 2nd respondent had worked for more than 480 days in 24 calendar months. Before the Authority under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, documents were marked on both sides. As per Ex.R.5, copy of the Attendance Register, the 2nd respondent had worked from January 1997 to June 1998. On perusing the above said Attendance Register, the Authority under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, has worked out the working days of the 2nd respondent and calculated the number of days worked by the 2nd respondent and came to a conclusion that the 2nd respondent worked for more than 505 days and thereby, passed the impugned order. Therefore, there is no dispute that the 2nd respondent worked under the petitioner Management as a daily wager based on the Award passed in the Lok Adalath. Thereafter, the Authority passed the order based on the documents submitted by the petitioner Management. Therefore, there is no infirmity or perversity found in the order passed by the Authority under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act and it does not warrant interference by this Court.



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11. With the above discussions, this Court is of the opinion that the Writ petition has no merits and deserves to be dismissed.

12. Accordingly, the Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order/non-speaking order
mjs

To

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P. DHANABAL, J.,

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