



W.P.No.35840 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 18.03.2025

CORAM :

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.35840 of 2024
& W.M.P.No. 38704 of 2024

1. N.Kirubakaran,
S/o.Natarajan,
15, Rajiv Gandhi Street,
IOB Collector Office,
Kanchipuram 631 501.

2. R.Selvaraj,
S/o.Ranganathan,
72/5, Vinayagar Koil street,
Nariyambakkam Village,
Malayankulam Post, Uthiramerur Taluk,
Kanchipuram 631 603.

3. S.Sargunan,
S/o. K.Saarangan,
No.25, Pillayar Koil street,
Kunnavakkam Village,
Panruti Post, Kanchipuram 631 604.

4. M.Mohanraj,
S/o.P.Megan,
237, Kilambi Colony, Baluchetty Chatram Post,
Kanchipuram -631 551.

Page 1 of 14



W.P.No.35840 of 2024

5. K.Sathishkumar,
S/o.M.Kumar,
No.71, Poonga Street,
Injambakkam, Karai Post,
Kanchipuram - 631 552.

6. R.Santhavel,
S/o.A.M.Raman,
111/2, Kamarajar Street,
Chinnaiyan Chatram,
Attuputhur Post,
Kanchipuram 631 561.

7. S.Rajesh,
S/o. Sivalingam,
17, Ambedkar Street,
Arasani Mangalam Village,
Uthiramerur Taluk, Kanchipuram - 608 402.

8. M.Baskar,
S/o.Mani,
No. 19, Vanniyar Street,
Malaiyankulam Village,
Uthiramerur Taluk,
Kanchipuram- 631 603.

9. M.Velayutham,
S/o.Marimuthu,
No.389, Mettu Street,
Thinayampoondi,
Kaliyampoondi,
Uthiramerur,
Kanchipuram- 603 402.



W.P.No.35840 of 2024

WEB

10. A.Sudhakar,
S/o. R.Arumugam,
No.292, Road Street,
Vedal Village,
Enathur Post,
Kanchipuram - 631 561.

11. D.Mohanavel,
S/o.Devaraj,
No.6, Road Street,
Sevelimedu,
Kanchipuram - 631 502.

... Petitioners

vs.

1. Tamil Nadu Civil Supplies Corporation,
Rep. by its Managing Director,
No. 12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

2. The Regional Manager,
Kanchipuram Region,
Tamilnadu Civil Supplies Corporation,
Vandawasi Road,
Pallavan Nagar, Housing Board,
Kanchipuram-631 501.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents herein to appoint the Petitioners herein, namely the 1st to 7th Petitioners as Bill Clerks in the Kanchipuram region and the 8th to 11th Petitioners as “Helpers” in the Kanchipuram region in the existing vacancies and issue such further orders.



WEB COPY



W.P.No.35840 of 2024

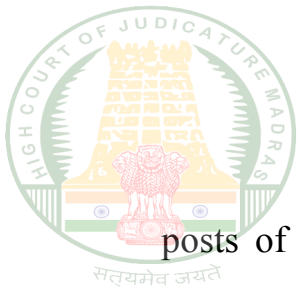
For Petitioners : Mr.V.Prakash, Senior Counsel,
for Mr.D.Christopher.

For Respondents : Mr.S.Ravi, Senior Counsel,
Assisted by Mr.C.Selvaraj,
Standing Counsel.

ORDER

The writ petition has been filed in the nature of a Mandamus seeking a direction against the respondents to appoint the 1st to 7th petitioners as Bill Clerks in the Kanchipuram region of the respondents and the 8th to 11th petitioners as Helpers again in Kanchipuram region in the existing vacancies.

2. In the affidavit filed in support of the writ petition, it had been contended that the petitioners are seasonal workers in Class-III and Class-IV and are in the list of seasonal workers maintained in Kanchipuram region of the respondents/Tamil Nadu Civil Supplies Corporation at Kanchipuram. A settlement under Section 12(3) of the Industrial Tribunal Act, 1947 had been reached between the Management and the Workmen originally on 19.09.1991. In that particular settlement, a Centralized seniority list was agreed to be prepared and whenever any vacancy arose in any region, be it Kanchipuram or any other District, for the



W.P.No.35840 of 2024

posts of Bill Clerks, Helpers and Watchmen, it had been agreed that from and among the seasonal employees who are eligible and in accordance with the seniority as prepared in the Centralized list, appointments will be made to the said posts of Bill Clerks, Helpers and Watchmen. This ensured that the senior most in the list prepared central wise or to put it differently in a single seniority list or a State wise seniority list with respect to the Districts where seasonal employees are employed, would be granted recognition of being appointed either as Class-C or Class-D workers in whichever District such vacancies arose.

3. There was some logic behind this particular preparation of a state-wise seniority list restricted to 20 Districts where seasonal employees are employed by the respondents.

4. This particular settlement which had been entered into on 19.09.1991, was superseded by yet another settlement again under Section 12(3) of the Act which was entered into in the year 1997 and more specifically on 30.01.1997. A few clauses in the earlier settlement had been superseded. One specific introduction, or a deviation from the earlier method followed in so far as



W.P.No.35840 of 2024

seniority is concerned was introduction of Clause 6 which provided for a Regional wise seniority list to be prepared on a District wise or Region Wise. This would automatically indicate that a conscious decision had been taken to do away with the Centralized seniority list. As this particular region-wise seniority list had been prepared, it would also follow that whenever vacancies arose in a specific region for the posts of Bill Clerks, Watchmen and Helpers, instead of drawing the employees to be filled up to those post from the Centralized seniority list, there was an obligation to draw from the region wise seniority list.

5. This led to difficulties in administration by the respondents. A person who was senior-most in a particular region may not be senior-most in the Centralized list. In fact, he could be somewhere in the middle. There would be many more seniors in the Centralwise seniority list over and above this particular individual who was however senior most in a particular region. But owing to this particular settlement reached on 30.01.1997, the respondents were under obligation to grant him preference to be appointed according to eligibility either as a Bill Clerks, Helpers and Watchmen.



W.P.No.35840 of 2024

6. This particular settlement dated 30.01.1997 had been consciously entered into by the respondents also. They were also parties to the said settlement.

Once they were parties to the settlement, there was an obligation on them to put the settlement into effect.

7. There was an earlier writ petition filed. The consequential Writ Appeal came up before consideration before a Division Bench in W.A.No.4008 of 2019. Both the Learned Senior Counsels had placed reliance on the observations of the Division Bench in that particular Writ Appeal. The judgment was delivered on 20.08.2020. That Writ Appeal arose from the order in W.P.No.19899 of 2017 which had been filed in the nature of a Mandamus by the employees' union of the respondents, seeking a direction against the respondents Corporation/Tamil Nadu Civil Supplies Corporation to abide by Clause 3 of the settlement dated 19.01.1991 and Clause 5 & Clause 6 of the settlement dated 30.01.1997.

8. The writ petitioners had sought a Declaration that those clauses in the settlements reached in the year 1991 and 1997 should be implemented till a fresh settlement is entered into or the settlements of the year 1991 and 1997 are



substituted by another settlement.

WEB COPY

9. While examining that relief sought, the Division Bench had observed that a Mandamus in that regard may not normally lie. However, it was stated that if there was a dispute over a settlement or a particular clause of the settlement, then it must be referred to the Industrial Tribunal for adjudication and a reference must be drawn by the Government. This was all the more required because the respondents had terminated the Settlement dated 30.01.1997. A dispute then arose whether such termination would be legally valid or not.

10. This issue, whether such termination was legally valid or not was the issue placed before the Industrial Tribunal on a reference by the Government. The Government, framed a reference and had issued a Government Order on 13.06.2024 in G.O.(D).No.381, dated 13.06.2024. The reference by the Government was as follows. Let me extract the words in vernacular as it was:

தொழிற்சாலைகள் சட்டம் 1947 பிரிவு 12(3)–ன் கீழ் 30.01.1997 அன்று ஏற்படுத்தப்பட்ட ஒப்பந்தத்தினை பிரிவு 19(2)–இன் கீழ் ரத்து செய்வதாக Notice of termination 10.05.2010 அன்று நிர்வாகத்தால் வழங்கப்பட்ட அறிவிப்பு நியாயமானது தானா? ஆம் எனில் உரிய உத்தரவுகள் பிறப்பிக்கவும்.



W.P.No.35840 of 2024

WEB COPY

11. A translation of the reference would mean that the Government had referred whether the termination of the settlement dated 30.01.1997 entered into under Section 12(3) of the Industrial Disputes Act 1947, by a termination notice dated 10.05.2010 was justifiable. This termination notice was issued by the respondents. This would indicate that the reference was only with respect to termination of the settlement which would also implicate that the settlement was presumed to be in force and that the settlement is binding and whether it could be terminated by the respondents. Till an order is passed by the Industrial Tribunal on that reference, it must be understood that the settlement is in force and is binding. The reference was not whether that particular settlement dated 30.01.1997 itself or any specific clauses in it were bad in law. The termination of the same was alone the issue which was put up before the Industrial Tribunal which had to examine whether such termination was justifiable.

12. Therefore, the argument advanced that the Writ Petition is not maintainable owing to the observation of the Division Bench may not be hold water since even in the judgment of the Division Bench it had been stated that it was incumbent on the Government to refer the issue before the Industrial Tribunal



W.P.No.35840 of 2024

for final adjudication. Now the reference has been made. Till an answer is given

WEB COPY to the reference, it has to be presumed that the settlement dated 30.01.1997 is the settlement which is operating and which the petitioners and the respondents are obliged to follow. They have no other alternative. It is a settlement reached under Section 12(3) of Industrial Disputes Act, 1947 and is legally enforceable and binding on the parties to the settlement. There is no dispute that the respondents are bound by the settlement unless it is held that the said settlement is bad in law or against public policy.

13. The Learned Senior Counsel for the respondents invited this Court to give a finding whether Clause 6 of the said settlement is opposed to public policy. If this Court were to examine that particular issue, the Learned Senior Counsel will have to concede that the writ petition is maintainable. On one hand, it is argued that the writ petition is not maintainable and on the other hand it is argued that a finding must be rendered that a specific clause in the settlement dated 30.01.1997 is opposed to public policy.



W.P.No.35840 of 2024

14. The issue before this Court is certainly not whether the settlement in entirety or in part is valid, binding or opposed to public policy. That it is in force today is presumed owing to the words of the reference wherein only the termination was put to test before the Industrial Tribunal. It is the decision of the respondents to terminate the said settlement which has to be examined and a finding has to be rendered whether such termination was justifiable or not. It is not whether the said settlement itself is valid or binding or opposed to public policy. Such a reference had not been issued by the Government.

15. Therefore, the petitioners are well within the right to seek a Mandamus, as they have now sought. The respondents are bound by the settlement dated 30.01.1997 wherein a regional seniority list has been prepared. If there is a vacancy in the Kanchipuram region for the post of Bill Clerks, Helpers and Watchmen, then from the regional seniority list for Kanchipuram region, the respondents are bound to appoint whoever is senior and eligible to the said posts. The petitioners claim that they are eligible. Their eligibility must be examined by the respondents but not with respect to the Centralized seniority list but with respect to the region wise/Kanchipuram region seniority list and with respect to



W.P.No.35840 of 2024

other qualifications which are required for the posts of Bill Clerks, Helpers and Watchmen.

16. The respondents must venture into such a exercise and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. Needless to point out if the Industrial Tribunal holds that the termination is justifiable, then that reference would supersede this particular order but till such time, the respondents are bound follow the settlement dated 30.01.1997 to the advantage of the petitioners who, if they are seniors in the region wise seniority list have a right to claim to be considered to be appointed as Bill Clerks, Helpers and Watchmen.

17. This Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

18.03.2025

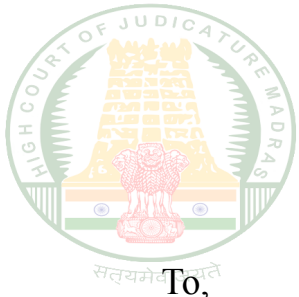
Neutral Citation : Yes.

Index :Yes.

Internet :Yes.

bsm

Page 12 of 14



W.P.No.35840 of 2024

To,

WEB

1. The Managing Director,
Tamilnadu Civil Supplies Corporation,
No. 12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

2. The Regional Manager,
Kanchipuram Region,
Tamilnadu Civil Supplies Corporation,
Vandawasi Road,
Pallavan Nagar, Housing Board,
Kanchipuram-631 501.

3. The Government Pleader, High Court, Madras.



WEB COPY



W.P.No.35840 of 2024

C.V.KARTHIKEYAN, J.

bsm

W.P.No.35840 of 2024

18.03.2025

Page 14 of 14