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W.P.No.3 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3 of 2019

And

W.M.P.No.1 of 2019

The Management of
Tamil Nadu State Transport Corporation,
Villupuram Division – III
Kancheepuram.

... Petitioner

Vs.

K.P.Sakthivel

... Respondent

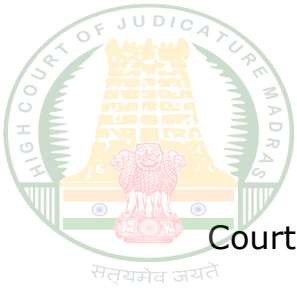
Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the III Additional Labour Court, Chennai in I.D.No.301 of 2013 order dated 28.12.2017 and quash the same.

For Petitioner : Mr.M.Aswin
For Respondent : Mr.R.Jai Kumar
for M/s.T.Fenn Walter Associates

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the III Additional Labour

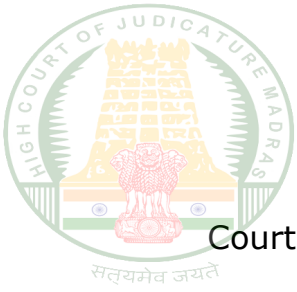


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Court, Chennai in I.D.No.301 of 2013 order dated 28.12.2017 and quash the same.

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2.The case of the petitioner Corporation is that the respondent was engaged on piece rated basis for cleaning the bus body and there is no employer and employee relationship between the petitioner Corporation and the respondent. 23 canteen employees were regularized as per G.O.249, dated 31.12.1998 and the respondent made representation seeking to regularise him like the said 23 employees and since it was not considered, the respondent filed W.P.No.2624 of 2008 and this Court directed the petitioner to consider the respondent's representation, pursuant to which, the respondent's representation was rejected and aggrieved by the same, the respondent filed W.P.No.3787 of 2009 and this Court directed the respondent to file application before the appropriate forum under the Conferment of Permanent Status to Workmen, thereby, the respondent filed application before the said Authority, in which, the petitioner filed counter stating that the respondent was already terminated from service and hence regularization of the respondent will not arise and thereafter, the respondent raised industrial dispute under Section 2(A)2 of the Industrial Disputes Act and the labour

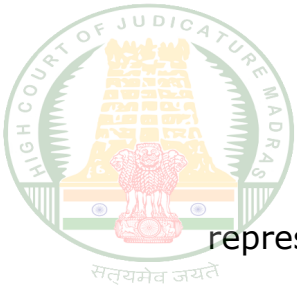


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Court allowed the industrial dispute and directed the petitioner to reinstate the respondent as regular employee from 15.05.1990 with continuity of service, 50% backwages and other attendant benefits. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the respondent himself admitted that he was engaged on piece rated basis. If no person is available, the respondent will be engaged and if any person is available, the respondent will not be engaged. Since there was no need for employee on piece rated basis, he was terminated from service. The learned counsel further submitted that the Labour Court is entitled to order reinstatement, however, have no power to order for regularisation in the industrial dispute raised under Section 2(A)2 of the Industrial Disputes Act.

4.The learned counsel appearing for the respondent submitted that the services of similarly situated persons were regularised, however, the respondent was not regularised and hence, the respondent made representation seeking to regularise him and since it was not considered, the respondent filed W.P.No.2624 of 2008 and this Court directed the petitioner to consider the respondent's



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representation, pursuant to which, the respondent's representation was rejected and aggrieved by the same, the respondent filed W.P.No.3787 of 2009 and this Court directed the respondent to file application before the appropriate forum under the Conferment of Permanent Status to Workmen, thereby, the respondent filed application before the said Authority, in which, the petitioner filed counter stating that the respondent was already terminated from service and hence regularization of the respondent will not arise and thereafter, the respondent raised industrial dispute under Section 2(A)2 of the Industrial Disputes Act and the labour Court allowed the industrial dispute and directed the petitioner to reinstate the respondent as regular employee from 15.05.1990 with continuity of service, 50% backwages and other attendant benefits, which warrants no interference.

5.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent and perused the materials available on record.

6.Admittedly, the respondent was engaged on piece rated basis. If no person is available, the respondent will be engaged and if any



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person is available, the respondent will not be engaged. Since there was no need for employee on piece rated basis, he was terminated from service. Further piece rated worker are under no obligation to report for work every day and hence, the respondent is not entitled to claim regularisation based on G.O.249, dated 31.12.1998.

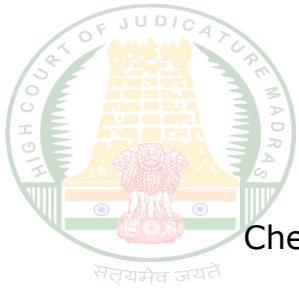
7.In view of the above, the writ petition is allowed. The order of the III Additional Labour Court, Chennai in I.D.No.301 of 2013 dated 28.12.2017 is set aside. However, a direction is issued to the petitioner to reinstate the respondent as a daily wage employee, within a period of four weeks from the date of receipt of a copy of this order, if any vacancy arise and give him employment as and when vacancy arise.

8.The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

01.04.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No
To
1.The III Additional Labour Court,

5/6



Chennai.

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M.DHANDAPANI,J.
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