



W.P.(MD)No.3229 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2025

CORAM:

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD).No.3229 of 2025

and

W.M.P(MD)Nos.2255 and 2256 of 2025

Duraisingakumar

... Petitioner

Vs.

1. The Managing Director,
The Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Byepass Road,
Madurai – 625 010.

2. The General Manager,
The Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Byepass Road,
Madurai – 625 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the Impugned Order passed by the 2nd respondent in Parvai.Th.A.Po.Ka/Madu/Niru/A4/2118/2006 dated 19.12.2006 and quash the same and consequently directing the respondents to confirm the petitioner's service with effect from the date (04.03.2002) on completion of 240 days of his actual service with all service, statutory and monetary benefits payable to him.



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For Petitioner : Mr.G.M.Xavier

For Respondents : Mr.S.Ramachandra Pradap

ORDER

Heard Mr.G.M.Xavier, learned counsel for the petitioner and Mr.S.Ramachandrapradeep, learned Standing counsel for the respondents. Carefully perused the materials available on record.

2. This Writ Petition has been filed challenging the impugned order in Ref. Tha.A.Po.Ka/Madu/Niru/A4/2118/2006, dated 19.12.2006, which is issued by the 2nd respondent and consequently to direct the respondents to confirm the petitioner's service with effect from date (04.03.2002) on the completion of the 240 days of his actual service with all service, statutory and monetary benefits, award cost.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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4. The petitioner was initially appointed as a Driver on daily wage basis on 05.03.2001. The claim of the petitioner is that he has completed 240 days of service on 04.03.2002, which would entitle him permanency as per Section 12(3) of Industrial Disputes Act, 1947, dated 25.09.1986. But he has been given with the benefit of regularization only at a later point of time ie., 01.07.2006.

5. As per Section 12(3) of Industrial Disputes Act, 1947, dated 31.08.2005, it is agreed between the Management and the Workers that the regularization can be made on completion of 240 days of continuous service in a year.

6. A similarly placed person like that of the petitioner had filed a writ petition in W.P(MD) No.9829 of 2024, wherein, this Court has passed the order by following the earlier orders passed in W.P.(MD) No.2652 of 2008 etc., Batch. For the sake of clarity, the operative portion of the above order is extracted hereunder:



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“35. After referring to various Judgments on this point, this Court in W.A.Nos.2871 and 2872 of 2018, dated 30.09.2019 (The Managing Director, Tamil Nadu State Transport Corporation Limited, Coimbatore Division, Erode Region, Chennimalai Road, Erode) concluded that statutory right of the respondents under Section 3(1) of the Act, 1981, prevails over any settlement.

- 1. Therefore, in the considered view of this Court, it is not necessary that a settlement should be declared as invalid for getting the statutory benefit under Section 3(1) of the Act, 1981. This Court respectfully differs from the views expressed in W.P(MD)No.3086 of 2011, dated 14.10.2011 (P.Raja and others Vs. The Management, Tamil Nadu State Transport Corporation Limited, Madurai and others) that the workmen are bound by the terms of the settlement and they cannot file Writ Petition. When the terms of the settlement is not enforced and permanent status is not conferred under Section 3(1) of the Act, 1981, the affected workman can always approach the Court for appropriate remedy. It is seen from the typedset of papers filed by the petitioners that the daily wage drivers, who joined service after the petitioners 2 to 16 in the year 2007 were given permanency immediately after the completion of 240 days of continuous service in a year by proceedings in Paarvai Nirvagam/A4/1865/06, dated 13.04.2009. When juniors of the petitioners are made permanent, immediately on the completion of 240 days of continuous service in a year, it is unfortunate that the petitioners' case was not considered favourably.*

2.



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37. *The other two Judgments relied on by the learned counsel appearing for the respondents 1 and 2 viz., (2004) 3 CTC 1 (P.Pitchumani and others Vs. The Management of Sri Chakra Tyres Limited and others) and 2020-IV-LLJ-20 (Royal Enfield Employees Union, Represented by General Secretary, Chennai Vs. Government of Tamil Nadu, Represented by Secretary Labour and Employment Department, Chennai and others) for the proposition that the petitioners have to approach only the Labour Court and cannot straightaway invoke the jurisdiction of this Court under Article 226 of the Constitution of India, may have some force in it. However, the petitioners 2 to 16 have been pursuing their remedy before the third respondent and before this Court from the year 2008. It is clearly established that the petitioners 2 to 16 have legal right for permanent status on completion of 240 days of satisfactory service as per the settlement entered in the year 1986, 1989 and 1992 and as per Section 3(1) of the Act. Therefore, at this distant point of time, this Court does not want to drive the petitioners 2 to 16 back to square one and direct them to raise an Industrial Dispute before an appropriate forum. In view of clear and well-founded statutory right available to the petitioner, the infringement of right by the respondents 1 and 2 Corporation cannot be allowed to sustain.”*

7. In view of the above reasons, this writ petition stands allowed and the impugned order in Ref. Tha.A.Po.Ka/Madu/Niru/A4/2118/2006, dated 19.12.2006 is hereby set aside. The respondents are directed to confirm the



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petitioner's service with effect from date of completion of 240 days of his actual service with all service and statutory benefits. With regard to the claim of monetary benefits, considering the financial implications that may be caused to the Transport Corporation, the monetary benefits is permitted to accrue only from the date of passing of this order. No costs. Consequently, connected miscellaneous petitions are closed.

25.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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