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W.A.(MD)NO.1160 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.1160 of 2023 AND

C.M.P.(MD)No.8861 of 2023

1. The Work Manager,
TANSI Foundry and Engineering Works,
Pettai, Thirunelveli – 627 010.

2. The Managing Director,
TANSI,
Guindy, Chennai – 32.

... Appellants/Petitioners

Vs.

1. The Inspector of Factories,
O/o.the Inspector of Factories,
18th Cross Street, Maharaja Nagar,
Thirunelveli -11.

2. V.Murugesan

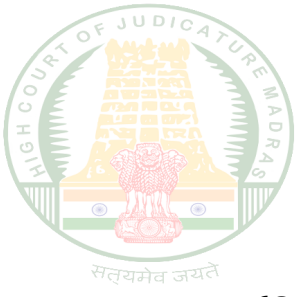
... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the final order passed in W.P.No.33538 of 2005 dated 02.12.2022 of this Court and allow this writ appeal.

For Appellants : Mr.Dr.A.Thiyagarajan,
Senior counsel,
for Mr.S.Karunakar.

For R-2 : Mr.D.Sivaraman

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**J U D G M E N T**

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(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2.The first appellant appointed the writ petitioner Thiru.Murugesan as watchman on daily wages vide proceedings dated 08.08.1985. He applied to the management for making him permanent. His request was rejected vide proceedings dated 13.08.1990. Thereafter, his case was taken up by the Union by submitting representation dated 11.08.1992. Since it was not considered, Murugesan filed W.P No.4577 of 1994 calling upon the management to consider the said representation. Pursuant to the direction given therein, the management of TANSI considered the request but negated the same vide memo dated 01.02.2001.

3.Left with no other option, Murugesan filed petition invoking the provisions of Tamil Nadu Act 46 of 1981. The Inspector of Labour after hearing both the parties, concluded that Murugesan had served for 480 days in two consecutive years and that he was working from 09.08.1985. Vide order dated 15.05.2002, the labour authority



directed the management to make the writ petitioner permanent.

Questioning the order passed under Section 3(1) of the Tamil Nadu Act 46 of 1981, the management filed W.P(MD)No.33538 of 2005. In this meanwhile, the workman applied for enforcing the said order. The Presiding Officer/ Labour Court had passed the award on 30.03.2015 in C.P.No.38 of 2005. Questioning the same, the management filed W.P.(MD)No.6366 of 2015. The learned single Judge dismissed both the writ petitions vide order dated 02.12.2022 and also imposed the cost of Rs.50,000/- on the management for having engaged the workman in such a long and vexatious litigation. Aggrieved by the same, the management filed these two writ appeals.

4.The contentions advanced by the learned Senior counsel appearing for the management do not persuade us to interfere with the order of the learned Single Judge. Three aspects are beyond dispute:-

a) The entry of Murugesan into service of TANSI was not through the back door. He was sponsored by the District Employment Exchange.



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b) A mere look at the appointment order of Murugesan indicates that it was a full time employment and not a part time employment. Even though the management had taken such a plea before the Labour Inspector but elsewhere, they had conceded that Murugesan is a full time employee. Before us, the point regarding the full time or part time nature of the employment was not pressed.

c) TANSI is a commercial establishment though the enterprise is not driven by profit motive. The nature of employment is also perennial.

We hold that the Tamil Nadu Act 46 of 1981 would apply to the case on hand.

3.The management nowhere had challenged the finding that Murugesan had served TANSI from 1985 onwards. It is not their case that there was any break in service. We are satisfied that the requirement set out in Section 3 of the Tamil Nadu Act 46 of 1981 is fulfilled in this case. No question of law has arisen. The learned Single Judge had declined to interfere with the finding rendered by the labour authority. Once the finding is accepted, relief has to



follow as a matter of course like a calf following the cow. A daily waged employee had to wage a long battle with the management.

TANSI is not a private employer. It is a State government undertaking. Though we find justification in levy of cost, in the interest of justice, even while sustaining the order of the learned Single Judge in all other aspects, we set aside the imposition of cost alone. The benefits payable to the writ petitioner shall be settled by the appellant management within a period of twelve weeks from the date of receipt of copy of this order. This writ appeal stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
4th July 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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W.A.(MD)NO.1160 OF 2023

G.R.SWAMINATHAN,J.

AND

K.RAJASEKAR, J.

PMU/skm

W.A.(MD)No. 1160 of 2023

04.07.2025