



W.A(MD)No.1863 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.1863 of 2025
and
C.M.P(MD)No.10618 of 2025**

- 1.The Managing Director,
Tamil Nadu State Marketing
Corporation Limited,
CMDA Tower – II, 4th Floor,
Egmore, Chennai.
- 2.The Senior Regional Manager,
TASMAC Limited,
Plot No.100, Anna Nagar,
Madurai.
- 3.The District Manager,
IMFS Depot, TASMAC Limited,
Thondi Road, Palamalai Nagar,
Narikuravar Colony,
Soorakulam Village,
Sivagangai District.

... Appellants /
Respondents

Vs.

Y.Xavier

... Respondent /
Petitioner



W.A(MD)No.1863 of 2025

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order passed in W.P(MD)No.11055 of 2024 dated 03.06.2024 by allowing the Writ Appeal.

For Appellants : Mr.H.Arumugam

For Respondent : Mr.S.Bharathi Kannan

JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The respondent herein joined the appellant corporation as bar attender on contractual basis. He was subsequently redesignated as Assistant Salesman. He turned 58 on 31.03.2024. According to the appellant corporation, a contractual employee is to be terminated upon reaching the age of 58. But according to the writ petitioner, he is entitled to the benefit of G.O(Ms)No.51 Personal and Administrative Reforms (S) Department dated 07.05.2020 and G.O(Ms)No.29 Personal and Administrative Reforms (S) Department dated 25.02.2021 whereby he can serve up to the age of 60 years. Since the Management did not agree with the said request, he filed W.P(MD)No.11055 of 2024. The learned single Judge vide order dated 03.06.2024 allowed the Writ Petition by applying the aforesaid Government Orders in his favour apart from



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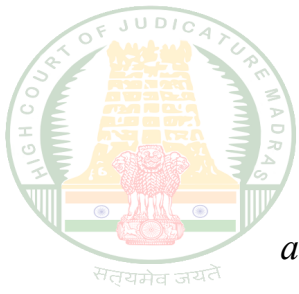
adding few more reasons. Questioning the same, TASMAG has filed this Writ

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3.The fact remains that on the date when the writ petitioner reached the age of 58, he was only a contractual employee. It is true that he had filed the petition before the competent authority under the Permanency Act. But no order has been passed in the said Petition till date. Therefore, the writ petitioner's status continues to be that of a contractual employee. Only if the writ petitioner can show that he is a permanent employee, probably the question of considering the application of the aforesaid GOs would arise.

4.It is also seen that a learned Judge of this Court vide order dated 18.03.2021 in W.P(MD)No.6025 of 2021 had held as follows:

“2.The petitioner herein, who was provisionally engaged as a Bar Attendar on temporary basis and on consolidated pay, placing reliance on G.O.(MS) No.51, Personal and Administrative Reforms (S) Department, dated 07.05.2020, seeks for service upto the age of 59 years. Since the petitioner has crossed the age of 58 years, the respondents claimed to relieve him at the age of 58 years. The said G.O.(MS) No.51, would not be applicable to the contract/temporary employee, which proposition has already been considered and held in favour of the respondent corporation in case of Viswanathan



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and others Vs The Chief Secretary to Government, State of Tamil Nadu and others passed in W.P(MD) No.7657 and 7681 of 2020, dated 28.08.2020. Since there are no material to show that the petitioner herein was a permanent employee of the Corporation, the benefit of G.O.Ms.No.51 may not be applicable to the petitioner herein and as such, the action on the part of the respondents in refusing to continue the petitioner's service after the age of 58 years, cannot be found fault with."

5.Considering the special facts and circumstances, we direct the Assistant Commissioner of Labour (Enforcement), Sivagangai to dispose of C.P.S.No.44 of 2019 filed by the writ petitioner on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. It is open to the writ petitioner to work out his rights in terms of the order to be passed by the said authority. The order of the learned single Judge is set aside.

6.This Writ Appeal is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
11.07.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA



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To
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The Assistant Commissioner of Labour (Enforcement),
Sivagangai.



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G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

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