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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.3283 of 2025
and
W.M.P.(MD) No.2295 of 2025

The Management
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
No.27, Railway Station New Road
Kumbakonam-612 001 ... Petitioner

-vs-

1.The Assistant Commissioner
of Labour (Enforcement)
Thanjavur
Thanjavur District

2.A.Sadasivam ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records on the file of the learned Assistant Commissioner of Labour (Enforcement), Thanjavur, pertaining to the order passed in Na.Ka.No.A.1620/2017, dated 31.05.2023 and to quash the same as illegal.

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For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R1

O R D E R

Heard the learned counsel for the petitioner.

2. This writ petition has been filed by the petitioner aggrieved by the order, dated 31.05.2023, passed in Na.Ka.No.A.1620/2017, by the first respondent, directing the petitioner – Transport Corporation to confer permanent status to the second respondent from the date on which he has completed 480 days of work within a period of two years, in terms of the provisions contained in the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (in short, "the Act, 1981").

3. The second respondent was engaged temporarily by the petitioner – Transport Corporation on 23.07.2001 and thereafter, he continued in the services of the petitioner – Transport Corporation in temporary status

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and finally, on 01.07.2006, the services of the second respondent were regularized. Thereafter, the second respondent continued in service as a Driver and thereafter, having realized that he is entitled for the benefits under the Act, 1981, he made a claim of conferment of permanent status in terms of the Act, 1981 and the same was considered by the first respondent by order dated 31.05.2023 directing the petitioner – Transport Corporation to confer permanent status to the second respondent from the date on which he has completed 480 days of work within a period of two years. Aggrieved by the said order, the petitioner – Transport Corporation has approached this Court by filing the present writ petition.

4. Firstly, the impugned proceedings was passed by the first respondent as early as on 31.05.2023. In spite of the same, the petitioner – Transport Corporation has not chosen to assail the said proceedings immediately thereafter, nor complied with the said proceedings, but belatedly approached this Court after a lapse of almost twenty months. Absolutely, there is no reason assigned by the petitioner – Transport Corporation for such delay in approaching this Court. On this sole ground, this writ petition is liable to be dismissed.

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5. Be that as it may, it is not in dispute that the second respondent – workman has completed 480 days of work in the year 2002 itself. The petitioner being a State Transport Corporation is under the statutory obligation to comply with the provisions of the Act, 1981 and extend all the benefits for which the second respondent and other similarly situated temporary employees are entitled to. But, for the reasons best known to them, the petitioner – Transport Corporation has chosen to regularize the services of the second respondent only with effect from 01.07.2006 and it is being contended that the second respondent has completed 480 days of work on 01.07.2006, which is factually incorrect. In the entire affidavit filed in support of the writ petition, there is no contention that the second respondent has not completed 480 days of work in the year 2002. In the absence of any dispute about the second respondent completing 480 days of work in the year 2002 after he was temporarily appointed on 23.07.2001, the action of the petitioner – Transport Corporation in refusing to extend the statutory benefits for which the second respondent is legally entitled to cannot be accepted.

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6. Further, it is the contention of the learned counsel for the petitioner – Transport Corporation that the services of the second respondent were regularized in terms of the settlement entered into under Section 12(3) of the Industrial Disputes Act, 1947, cannot be accepted for the simple reason that the said settlement is contrary to the provisions of the Act, 1981 and the rights of the second respondent cannot be taken away in the guise of the settlement under Section 12(3) of the Industrial Disputes Act, 1947. Workmen are not fully acquainted with their rights and entitlements under the various statutes and the petitioner being a State Transport Corporation is under the obligation to educate the workmen and extend all the benefits for which they are entitled to under the said enactment. Admittedly, the second respondent is entitled for conferment of permanent status on completion of 480 days of service, which was arbitrarily denied by the petitioner – Transport Corporation and it is now granted by virtue of the impugned order passed by the first respondent. The petitioner being a State owned Corporation is expected to act as a model employer and act in a fair manner with its employees and see that all the beneficial legislations are given effect to in their letter and spirit instead of indulging in unwanted and frivolous litigation.

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7. In the light of the above, this Court is of the considered view that this is not a fit case to exercise the certiorari jurisdiction of this Court under Article 226 of the Constitution of India.

8. Accordingly, this writ petition is dismissed. As the impugned order was passed as early as on 31.05.2023, the petitioner – Transport Corporation is directed to give effect to the same as expeditiously as possible, at any rate, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

04.02.2025

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

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To:
The Assistant Commissioner
of Labour (Enforcement),
Thanjavur,
Thanjavur District.

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MUMMINENI SUDHEER KUMAR, J.

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