



W.P.(MD) No.19043 and 914 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) Nos.19043 and 914 of 2024

and

W.M.P.(MD) No.16117 of 2024

W.P.(MD)No.19043 of 2024

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.S.Sampth

... 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

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Commissioner of Labour (Enforcement), Thanjavur, pertaining to the order passed in Na.Ka.No.A.1991/2017, dated 22.05.2023 and to quash the same as illegal.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.F.Deepak,
Special Government Pleader for R1

Mr.N.Sudhagar Nagarj for R2

W.P.(MD)No.914 of 2024

S.Sampath

... Petitioner

-VS-

1.The Assistant Commissioner
of Labour (Enforcement)
Authority under the
Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to
Workmen) Act, 1981,
Inspector, Thanjavur.

2.The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam-612 001,
Thanjavur District.

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3.The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam-612 001,
Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 2 and 3 herein to implement the order/award dated 22.05.2023 passed by the 1st respondent and further direct the respondents 2 and 3 herein to regularise the service of the petitioner from 28.06.2002 and re-calculate the basic salary and other allowances from 28.06.2002 to till date and disburse the difference amount of the same along with time scale of pay and all other attendant and monetary benefits to the petitioner herein along with 6% interest within the time limit that may be fixed by this Court.

For Petitioner : Mr.N.Sudhagar Nagarj

For Respondents : Mr.F.Deepak,
Special Government Pleader for R1

Mr.S.C.Herold Singh for R2 & R3



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COMMON ORDER

Heard the learned counsel on either side.

2. For the sake of convenience, the parties are referred to as per their rank in W.P.(MD)No.19043 of 2024.

3. Writ petition No.19043 of 2024 has been filed by the petitioner aggrieved by the order, dated 22.05.2023, passed in Na.Ka.No.A.1991/2017, 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”), whereas W.P.(MD)No.914 of 2024 has been filed by the respondent No.2 seeking implementation of the order dated 22.05.2023.



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4. The second respondent was engaged temporarily by the petitioner – Transport Corporation on 06.11.2000 and thereafter, he continued in the services of the petitioner – Transport Corporation in temporary status 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 and by order dated 22.05.2023 directed the petitioner – Transport Corporation to confer permanent status to the second respondent from the date on which he had 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.

5. 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,



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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 once the second respondent was conferred permanent status by regularising his services on 01.07.2006, the 1st respondent cannot entertain an application for permanent status. 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 06.11.2000, 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.

6. Further, 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 also 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



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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.

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.



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8. Accordingly, W.P.(MD)No.19043 of 2024 is dismissed. As the impugned order was passed as early as on 22.05.2023, 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. Accordingly, W.P.(MD)No.914 of 2024 is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

21.03.2025

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

vsm



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To:

- 1.The Assistant Commissioner
of Labour (Enforcement)
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Thanjavur District
- 2.The Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam-612 001,
Thanjavur District.
- 3.The General Manager,
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MUMMINENI SUDHEER KUMAR, J.

vsm

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