



WP(MD)Nos.20590 to 20594 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.20590 to 20594 of 2023

and

WMP(MD)Nos.17002, 17008,17003,17004,17005 of 2023

M.Rajapandi	...Petitioner in WP(MD)No.20590 of 2023
V.Eswaran	...Petitioner in WP(MD)No.20591 of 2023
M.Chidambaram	...Petitioner in WP(MD)No.20592 of 2023
P.Shanmugasundaram	...Petitioner in WP(MD)No.20593 of 2023
G.Pandi	...Petitioner in WP(MD)No.20594 of 2023

Vs

1.The Management,
Bharathi Co-Operative Spinning Mills Ltd,
Vilathikulam Road,
Ettaiyapuram, Thoothukudi District,
628 902.

2.The Joint Director cum Competent Authority
under the Tamil Nadu Industrial Establishment
(Conferment of Permanent Status to Workmen) Act,
Industrial Safety and Health Department,
No.10 B, Masilamanipuram, 1st Street,
Thoothukudi – 628 009.

...Respondents in all WPs

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records of the 2nd respondent's proceedings in RC.No.E/677/2019, dated 17.07.2023



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and to quash the same as illegal and consequently direct the respondents herein to confer permanent workman status to the petitioners with all attendant benefits.

For Petitioners : Mr.D.Srinivasaragavan

For Respondents : Mr.C.Venkateshkumar,
Special Government Pleader
in all WPs

ORDER

The present writ petitions have been filed as against the order of the 2nd respondent Joint Director / the Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 dismissing the applications of the petitioners seeking conferment of permanent status along with attendant benefits.

2.The writ petitioners were employed as Non-Muster Roll (NMR) workers in the 1st respondent Co-operative Spinning Mill. They made an application to the 2nd respondent Joint Director cum Competent Authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (in short 'the Act') seeking



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conferment of permanent status on the ground that they have worked for more than 480 days. Their applications were rejected by the 2nd respondent vide impugned order dated 17.07.2023 on the ground that their appointment was made without following the prescribed procedure.

3.The learned counsel for the petitioners submits that the petitioners have been employed as NMR workers in the 1st respondent Co-operative Spinning mill and they have worked for more than 480 days in 24 calendar months and hence they are entitled for permanent status under Section 3(1) of the Act. They have been receiving ESI and PF benefits from the respondent Co-operative Spinning Mill.

4.He further submits that at the most the appointment of the petitioners can be termed as irregular appointment but the same cannot be said to be an illegal appointment. The petitioners have been involved in works such as cone winding, spinning, carding and cleaning. Since the petitioners have been employed for more than 480 days during 24 calendar months, they ought to be provided with permanent status.



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5. In support of his contention, the learned counsel for the petitioners has relied on a decision of this court in ***The Management, Tamil Nadu Khadi and Village Industries Board vs. The Workmen Rep. by the Secretary (W.A. No. 758 of 2016 dated 24.07.201)*** and ***The Management, Tamil Nadu Handloom Weavers Co-operative Society vs. The Deputy Commissioner of Labour (W.A. No. 2389 of 2918 dated 23.06.2023)*** and submits that conferment of permanent status is automatic on completion of 480 days of service. Therefore, the learned counsel prays that the impugned order be set aside.

6. On the other hand, the learned Special Government Pleader appearing for the respondents by referring to the counter affidavits filed by the 1st respondent submits that the recruitment of the petitioners was done without following the rules / bye-laws of the 1st respondent Co-operative Spinning Mill and hence, their appointment is illegal in nature. As per the rules employees should be appointed through the employment exchange only. Since the petitioners were not appointed through the employment exchange, they cannot claim back-door entry now.



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7.The learned Special Government Pleader has relied on a decision of the Hon'ble Supreme Court in *Uma Rani vs. Registrar of Co-operative Societies* reported in (2004) 7 SCC 112 and a decision of this court in *C. Wilbert vs. The Management of Indian Institute of Technology and others (W.P. No. 13726 of 2015)* and submits that regularisation or permanent absorption cannot be granted when there is violation of recruitment rules. He further submits that the petitioners themselves have admitted in their cross examination that the appointment was made without following the procedure. Therefore, there is no need to interfere with the order of the 2nd respondent.

8.This court has considered the submissions made and perused the materials on record.

9.The 1st respondent Spinning mill is registered as a Co-operative Society under the Tamil Nadu Co-operative Societies Act 1961 and hence, it is bound by the provisions of the Tamil Nadu Co-operative Societies Act 1961 and Rules made thereunder. The State Government



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has framed rules to be followed by such co-operative societies under

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Section 180 of the Tamil Nadu Co-operative Societies Act and Rule 149 (1) of the Tamil Nadu Co-operative Societies Rules 1988, requires every society to frame bye laws governing the number and type of posts, the method of recruitment to each post and the pay and allowances to each post. Further Rule 149 (2) of the aforesaid Rules provides that no co-operative society shall make any direct recruitment except by calling for eligible names from the employment exchange. The same is extracted hereunder:

“(2) No appointment by direct recruitment to any post shall be made except by calling for a list of eligible candidates from the Employment Exchange and also giving due publicity by means of announcement in the notice board of the society and also of the affiliated societies, inviting application from the eligible employees of such societies. Where the Employment Exchange issues a non-availability certificate, the society shall invite applications by giving advertisement in more than one daily newspapers in which one should be in regional language having wide circulation throughout the State: Provided that the above stipulation shall not apply-



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(i) to the appointment made on compassionate grounds;

(ii) for the absorption of surplus employee of other Co-operative Societies;

(iii) to the posts for which a Recruitment Bureau has been constituted under section 74 of the Act or in respect of which a common cadre of service has been constituted under section 75 of the Act.”

10.The 1st respondent has also placed the special regulations relating to the service conditions of the staff members of the 1st respondent mill, framed as per their bye-laws. These regulations prescribe the qualifications required for each post and as per these regulations, appointments shall be made by availing the services of the local employment exchanges. It also provides that recruitment sub-committee would interview all the candidates with suitable qualification and select the candidates for appointment. Such candidates would be provided with appointment orders by the Managing Director/ General Manager of the mill.



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11.A perusal of the materials placed before this court reveals that during the cross examination before the 2nd respondent authority the petitioners have admitted that they were not recruited through employment exchange and they have also admitted that they do not possess any appointment order.

12.From the above it is clear that the appointment of the petitioners is in violation of the Tamil Nadu Co-operative Society Rules and bye-laws of the 1st respondent Spinning Mill. Hence, their appointment can only be termed to be illegal in nature.

13.A Division Bench of this court in ***L.Justine Vs. Registrar of Co-operative Societies*** reported in ***2003 (1) LLN 315*** held that the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 are not applicable when the appointment itself is illegal in nature. The relevant portions are extracted hereunder:



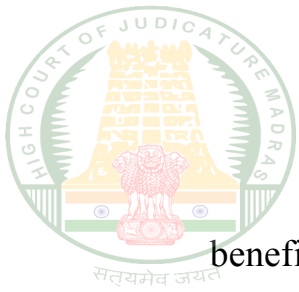
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“15. Even if the above requirement of cooperative training and experience qualifications are condonable because of the long years of service put in by the staff on equitable grounds and tempering justice with mercy, the conditions relating to educational qualifications and technical qualifications and more particularly, the cadre strength, cannot be condoned in the exercise of the discretionary jurisdiction of this Court under Article 226 of the Constitution of India. The provisions of either the Permanency Act of 1981 or of the Industrial Disputes Act 1947 cannot also be pressed into service when the appointments are ipso facto illegal and unauthorised. We cannot accede to the contention that even if the appointment is illegal and unauthorised, merely on the passage of time and completion of the stipulated period of 480 days under the Permanency Act of 1981 or 240 days under the Industrial Disputes Act, 1947, an indefeasible right accrues to an employee. Such an argument is clearly untenable.....”

14. The Hon'ble Supreme Court in ***Uma Rani vs. Registrar of Co-operative Societies*** reported in ***(2004) 7 SCC 112*** has upheld the decision of the Division Bench in *L. Justine* (supra) and held that regularisation



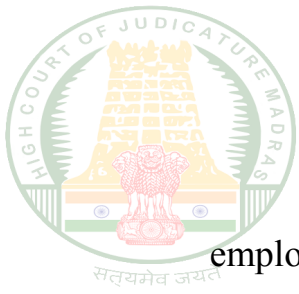
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benefits cannot be extended to employees whose appointments are illegal in nature. The relevant portion is extracted hereunder:

“39. Regularisation, in our considered opinion, is not and cannot be the mode of recruitment by any "State" within the meaning of Article 12 of the Constitution of India or any body or authority governed by a Statutory Act or the Rules framed thereunder. It is also now well-settled that an appointment made in violation of the mandatory provisions of the Statute and in particular ignoring the minimum educational qualification and other essential qualification would be wholly illegal. Such illegality cannot be cured by taking recourse to regularisation. (See State of H.P. Vs. Suresh Kumar Verma and Another, (1996) 7 SCC 562).

40. It is equally well-settled that those who come by backdoor should go through that door. (See State of U.P. and Others Vs. U.P. State Law Officers Association & Others, (1994) 2 SCC 204) Regularisation furthermore cannot give permanence to an employee whose services are ad-hoc in nature.”

15. The Hon'ble Supreme Court in ***Secretary, State of Karnataka vs. Umadevi*** reported in ***2006 (4) SCC 1*** has held that a temporary



employee cannot claim the benefit of permanent status if the original appointment was made in violation of relevant rules. The relevant portion is extracted hereunder:

*“43. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. **Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules**”*



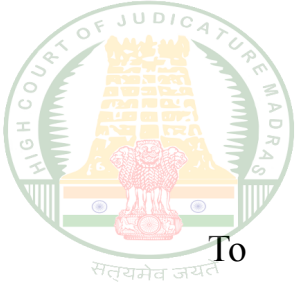
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16.As far as the present writ petitions are concerned, the materials reveal that the petitioners were appointed in violation of the Tamil Nadu Co-operative Society Rules, 1988 governing the appointment in co-operative societies and the bye laws of the 1st respondent. They were not appointed through the employment exchange and no order of appointment was issued to them. In such a situation, the benefits of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 cannot be extended to the petitioners.

17.In light of the above discussion and as per the decisions of the Hon'ble Supreme Court, there is no infirmity in the impugned order of the 2nd respondent. Accordingly, these writ petitions are dismissed. No costs. Consequently connected miscellaneous petitions are also closed.

14.10.2025

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