



W.P(MD)Nos.26072, 20515 & 25793 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)Nos.26072, 20515 & 25793 of 2022

and

W.M.P.(MD)No.20204 of 2022

W.P.(MD)No.26072 of 2022

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Byepass Road, Madurai-10.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Dindigul-4.

3.The Branch Manager,
Theni Branch,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Theni.

... Petitioners

Vs.

K.Murugan

... Respondent

W.P.(MD)Nos.20515 & 25793 of 2022

K.Murugan

... Petitioner

Vs.

1.The Management of Tamil Nadu State
Transport Corporation (Madurai) Ltd.,



W.P(MD)Nos.26072, 20515 & 25793 of 2022

Rep. by its Managing Director,
Madurai Bye-pass Road, Madurai.

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2.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Dindigul Region,
Dindigul.

3.The Branch Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Theni Branch, Theni.

4.The Assistant Commissioner of Labour
(Enforcement), Authority under
Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to
Workmen) Act, 1981, Dindigul.

... Respondents

PRAYER in W.P.(MD)No.26072 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records on the file of the learned Assistant Commissioner of Labour (Enforcement), Dindigul pertaining to its proceedings in Pa.Ni.Sa.Va.No.5 of 2015 dated 16.05.2022 and quash the same.

PRAYER in W.P.(MD)No.20515 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to confer the permanent status upon the petitioner and make the petitioner permanent in the post of Driver with effect from 05.09.2014 with time scale of pay, salary arrears payable thereon along with all other attendant benefits as per the order of the 4th respondent passed in Pa.Ni.Sa.Va.No.5/2015 (Na.Ka.Aa/2870/2015) dated 16.05.2022 within a time frame that may be fixed by this Court.



W.P(MD)Nos.26072, 20515 & 25793 of 2022

PRAYER in W.P.(MD)No.25793 of 2022: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to revise and drop the punishment of postponing the petitioner's daily wage period for further two years in terms of Clause 61 of Settlement under Section 12(3) of IC Act dated 30.09.1992 in the light of the judgment of acquittal rendered in criminal case in C.C.No.8 of 2017 dated 31.03.2021 by the Chief Judicial Magistrate, Theni.

W.P.(MD)No.26072 of 2022

For Petitioners : Mr.S.C.Herold Singh
For Respondent : Mr.T.Arul,
for Mr.Rahul

W.P.(MD)Nos.20515 & 25793 of 2022

For Petitioner : Mr.T.Arul,
for Mr.Rahul
For Respondents : Mr.S.C.Herold Singh

COMMON ORDER

The issue involved in these Writ Petitions is between the Transport Corporation and one Murugan, who is the employee under the Transport Corporation and since it is one and the same, all these Writ Petitions are heard together and disposed of by way of this common order.

2.The brief facts of the case is that one Murugan was appointed as reserve crew driver temporarily in the Transport Corporation with effect from



W.P(MD)Nos.26072, 20515 & 25793 of 2022

06.12.2012 at Theni Branch. Thereafter, he was appointed as daily wage driver vide proceedings of the Transport Corporation dated 05.09.2020. Thereafter, he was made permanent with effect from 01.10.2021. While he was in duty, due to his negligence, an accident occurred, which led to the death of a passenger. Therefore, his tenure as daily wager was extended. Initially, though he accepted the same and discharged his duties, at a later point of time, he filed a petition before the Assistant Commissioner of Labour, Dindigul, claiming confirmation under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as 'the Act') on completion of 480 days on 05.08.2014. Pending the same, the learned Chief Judicial Magistrate, Theni acquitted the said Murugan from the criminal case in C.C.No.8 of 2017, dated 31.03.2021. Therefore, based on the same, the Assistant Commissioner of Labour, Dindigul has passed an award dated 16.05.2022, directing the Transport Corporation to confirm permanent status to the said Murugan from 07.12.2014. Aggrieved by the same, the Transport Corporation has filed W.P.(MD)No.26072 of 2022.

3. For the sake of convenience, the Transport Corporation is referred to as 'the Management' and the said Murugan is referred to as 'the employee'.



W.P(MD)Nos.26072, 20515 & 25793 of 2022

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4.The learned counsel appearing for the Management would submit that the provisions of the Act will not be applicable to the employee. However, without considering the said aspect, in a mechanical manner, the Assistant Commissioner of Labour, Dindigul, by applying Section 3 of the Act and based on the acquittal given by the learned Chief Judicial Magistrate, Theni, granted permanent status to the employee.

5.On the other hand, the learned counsel appearing for the employee would submit that the employee worked in the Management from the year 2012 to 2014 even till date, he is working as a Driver in the Management. Since it is a permanent post, the employee has been appointed. Though he was appointed as driver, the Management engaged him as a reserve crew driver and regularly, he has been working more than 12 years. Considering all these aspects only, the Assistant Commissioner of Labour, Dindigul granted permanent status to the employee. Therefore, there is no error in the award passed by the Assistant Commissioner of Labour, Dindigul and hence, he prayed for dismissal of the Writ Petition in W.P.(MD)No.26072 of 2022.



W.P.(MD)Nos.26072, 20515 & 25793 of 2022

6.The employee has also filed W.P.(MD)No.20515 of 2022, seeking for Writ of Mandamus, to direct the respondents to confer permanent status to him and make him permanent in the post of Driver with effect from 05.09.2014 with time scale of pay, salary arrears payable thereon along with all other attendant benefits as per the order of the Assistant Commissioner of Labour, Dindigul dated 16.05.2022 within a time frame that may be fixed by this Court.

7.The learned counsel for the employee would further submit that false case has been foisted against the employee and he was acquitted from the said criminal case vide judgment dated 31.03.2021 made in C.C.No.8 of 2017 by the learned Chief Judicial Magistrate, Theni. Therefore, the employee made a representation dated 11.07.2022 to review the punishment awarded by the Management on 09.05.2018. However, the same has not been considered so far. Therefore, the employee has filed W.P.(MD)No.25793 of 2022, seeking for Writ of Mandamus, to direct the respondents to revise and drop the punishment of postponing his daily wage period for further two years in terms of Clause 61 of Settlement under Section 12(3) of IC Act dated 30.09.1992, in the light of the judgment of acquittal rendered in the criminal case in C.C.No.8 of 2017 dated 31.03.2021 by the learned Chief Judicial Magistrate, Theni.



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8.I have given due consideration to the submissions made on either side and perused the materials available on record carefully.

9.The main contention of the Management is that the employee was appointed as reserve crew driver and the fact remains that though he was appointed as reserve crew driver, even as on date he has been working as regular worker and the Management have been extracting the services of the employee on daily basis. Therefore, as per Section 2(4) of the Act, the employee is a workman and if any workman worked for more than 480 days, then the Management has to provide conferment of permanent status in terms of the provisions of Section 3 of the Act. Section 2(4) of the Act is as follows:-

“ “Workman ” means any person employed in any Industrial Establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied [and includes a badli workman] ”

10.A reading of the above definition would show that workman means that any person employed in any Industrial Establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or



reward. In the present case, the petitioner was working as a Driver. The Management submitted that he was recruited in the reserve group. If the workman is recruited under the reserve group or any other category and ultimately, if he performs any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, he would be available under the definition of workman. In the present case, the petitioner is employed as a Driver, which squarely falls under the category of workman. Thus, for the purpose of the Act, the employee would be considered as workman. Hence, the Act would be squarely applicable for the employee. If such being the case, automatically, Section 3 of the Act will be applicable to the employee herein. The employee worked in reserve group for a period of more than 480 days. In fact, he has been working continuously and his service has been extracted more than 12 years without any stoppage. Therefore, the employee comes under the category of unskilled / skilled worker. Thus, the contention of the Management that the Act will not be applicable to the employee will not have any merit and the same is liable to be rejected.

11. In such being the position, the Management is supposed to provide conferment of permanent status, when the employee has completed 480 days with effect from 07.12.2014. However, they made conferment of status with



W.P.(MD)Nos.26072, 20515 & 25793 of 2022

effect from 01.10.2021. It is not in accordance with the provisions of the Act.

Hence, considering all these aspects, the Assistant Commissioner of Labour, Dindigul provided permanent status to the employee with effect from 07.12.2014. Therefore, I do not find any error in the decision making process of the Assistant Commissioner of Labour, Dindigul, while passing the impugned award dated 16.05.2022. Therefore, the impugned award stands confirmed. In the result, W.P.(MD)No.26072 of 2022 is dismissed.

12.Since the impugned award is confirmed, W.P.(MD)No.20515 of 2022 is allowed, directing the Management to implement the award passed by the Assistant Commissioner of Labour dated 16.05.2022, within a period of four weeks from the date of receipt of a copy of this order by providing conferment of permanent status to the employee with effect from 07.12.2014.

13.Insofar as W.P.(MD)No.25793 of 2022 is concerned, the Management is directed to consider the representations of the employee, in view of the acquittal of the employee from a criminal case by the learned Chief Judicial Magistrate, Theni, dated 31.03.2021 on merits and in accordance with law and pass orders, taking into consideration Clause 61 of Settlement made under Section 12(3) of IC Act within a period of four weeks from the date of



W.P(MD)Nos.26072, 20515 & 25793 of 2022

receipt of a copy of this order. Accordingly, W.P.(MD)No.25793 of 2022 is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

02.01.2025

NCC : Yes / No
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W.P(MD)Nos.26072, 20515 & 25793 of 2022

KRISHNAN RAMASAMY, J

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W.P(MD)Nos.26072, 20515 & 25793 of 2022

02.01.2025