



WP(MD)No.26309 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.26309 of 2022

Balakrishnan

... Petitioner

Vs

**1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Ltd),
Thanjavur District.**

**2.The General Manager,
Tamilnadu State Transport Corporation
(Kumbakonam Ltd),
Trichy Division,
Trichy.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the entire records in connection with the impugned order of the 2nd respondent by his proceedings in TNSTC/KUM/TRY/PS/SM1/18305/2021 dated 28.12.2021, quash the same as illegal and consequently directing the respondents to grant permanent status confirmation order and arrears of salary from July 2016 to the petitioner as per 12(3) settlement of Industrial Dispute Act 1947 within a fixed time limit as stipulated by this Court.



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For Petitioner : Mr.D.Anbarasu
For Respondents : Mr.K.Jagadeeshbalan
Nos.1 to 4 Standing Counsel

ORDER

The petitioner was engaged as a reserve driver from 09.06.2015 in the respondent transport corporation. His services was regularised with effect from 01.10.2021 by referring to an accident said to have taken place on 23.05.2018, his services was regularised only with effect from 01.10.2021. His request for regularisation of his service on completion of 240 days, ie., with effect from 09.06.2019 was rejected. As against that order, the present petition has been filed.

2.The learned counsel for the petitioner submits that the department is regularising the reserve drivers on completion of 240 days. The petitioner with a grievance that he has not been regularised has already filed a writ petition before this Court in WP(MD)No.18305 of 2021 seeking a mandamus to the respondents to grant conferment of permanent status based on the settlement under Section 12(3) of the Industrial Disputes Act and his representation dated 07.10.2019.



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In that writ petition a stand was taken by the learned standing counsel appearing for the respondent corporation that if the petitioner has completed more than 240 days from the date of joining of service and satisfies other conditions, the respondents will consider his representation and would pass appropriate orders. Considering this submission of the learned standing counsel in WP(MD)No.18305 of 2021 this Court by order dated 07.10.2021 disposed of the writ petition with a direction to the respondents to consider the case of the petitioner based on his representation dated 17.10.2019 on its merits and in accordance with law. However the impugned order has been passed without considering the stand, which has been taken by them in the previous writ petition in paragraph No.3, which reads as follows:

“The learned Standing Counsel appearing for the respondents, would submit that, if the petitioner has completed more than 240 days, from the date of joining service and satisfy other conditions, the respondents will consider the said representation and pass orders.”



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3.Mr. Jagadeeshbalan, learned counsel for the respondent corporation submits that this petitioner has caused an accident on 23.05.2018 and therefore his services was regularised on 01.10.2021. According to the learned counsel for the petitioner, since this petitioner has involved in an accident, he cannot claim it as a matter of right that he is entitled for regularisation on completion of 240 days.

4.This Court considered the rival submissions made and perused the materials placed on record.

5.This petitioner was engaged as a reserve driver on 09.06.2015. When this petitioner has approached this Court for regularisation based on the 12(3) settlement, a stand has been taken by the respondent corporation that the petitioner is entitled for regularisation on completion of 240 days and therefore his representation would be considered. Considering this submissions made by the learned standing counsel for the respondent corporation, this Court disposed the writ petition filed by this petitioner in WP(MD) No.18305 of 2021 with a direction to the respondents to consider the representation of this petitioner on merits and



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in accordance with law within a stipulated time. Accordingly, this impugned order has been passed. The stand taken by the respondent is that this petitioner has caused an accident on 23.05.2018 and therefore is his service was not regularised on completion of 240 days and it was regularised only on later date.

6.The specific case of this petitioner is that he was engaged as a driver in the transport corporation from 09.06.2015 continuously without any break and therefore, he is entitled for regularisation on completion of 480 days as per Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. Though the respondents took a stand that this petitioner caused an accident in the year 2018, even thereafter he was allowed as a driver and his services were availed and therefore, this writ petition is allowed with a direction to the respondents to grant the petitioner the conferment of permanent status as per Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 on completion of 480 days.



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7.This writ petition is allowed in the above terms. The impugned order is set aside. No costs. Consequently connected miscellaneous petition is closed.

21.01.2025

DSK

To

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Ltd),
Thanjavur District.

2.The General Manager,
Tamilnadu State Transport Corporation
(Kumbakonam Ltd),
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B.PUGALENDHI.J.,

DSK

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