

(2004) 03 MAD CK 0081

In the Madras High Court

Case No : Writ Petition No's. 32834 and 32845 of 2002

A. Chinnaraju and Others

APPELLANT

Vs

Periyar University and The Labour Inspector Cum Authority
under Tamilnadu Industrial Establishment (Conferment of
Permanent Status to workmen) Act, 1981

RESPONDENT

Date of Decision : 31-03-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 03 MAD CK 0081

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : G. Purushothaman, for the Appellant; S. Muthukumar, for V.R.
Rajasekaran, Spl. G.P., for the Respondent

Judgement

P.K. Misra, J.—In W.P.No.32834 of 2002, the petitioners have prayed for quashing the proceedings of the second respondent dated

21.3.2002 rejecting the application of the petitioner for regularisation u/s 3 of the Tamil Nadu Industrial Establishment (conferment of Permanent

Status to Workmen) Act, 1981. In W.P.No.32835 of 2002, the prayer is for issuing a writ of mandamus directing the respondent to reinstate the

petitioners with continuity of service, backwages and all other benefits.

2. The petitioners claim that they were appointed on daily wages by the first respondent University in various posts and they were being paid on

monthly basis. It is stated that the nature of posts are permanent, essential, continuous and perennial in nature and they were working continuously

without any break in service from two to four years. Accordingly they claim that they should be conferred permanent status. It is further claimed

that the first respondent by oral orders imposed artificial break in service with a view to deny opportunity to the petitioners from claiming

permanent appointment. It is further stated that on the basis of such disengagement, the second respondent by order dated 21.3.2002, dismissed

the Petition No.8509/2001 on the ground that the petitioners were already discharged from the service. On the aforesaid basis, two writ petitions

have been filed.

3. In the counter affidavit filed on behalf of the respondents it is stated that the petitioners had been employed as casual workers for attending the

work relating to examinations. The nature of work assigned to them are arranging question papers, answer papers, packing question and answer

papers in bundles, labeling those bundles by filling up the required particulars for transmitting the same to the examination centres and loading the

parcels in vans. It has been stated that the nature of work are casual and seasonal and the work attended by the petitioners was not permanent.

The allegation that the petitioners were working continuously for 2 to 4 years had been denied. It is also stated that the petitioners had filed petition

on 26.11.2001 before the Labour Inspector claiming right u/s 3 of the Tamil Nadu Industrial Establishment (conferment of Permanent Status to

Workmen) Act, 1981. Subsequently, the petitioners filed W.P.No.3321 of 2002 seeking for a direction to the University to regularise the service

of the petitioners and by order dated 16.4.2002, such writ petition was dismissed with liberty to workout their remedy available under law.

4. Keeping in view the stand taken in the writ petitions and the stand taken in the counter affidavit, it is apparent that the questions raised involve

several disputed question of facts which can be more appropriately gone into by an appropriate forum and not in a writ jurisdiction under Article

226 of the Constitution. If the petitioners are aggrieved by the oral termination, it would be obviously open to them to approach the appropriate

forum. The reliefs claimed in the writ petitions cannot be granted and if the petitioners so desire, it would be open to them to approach the

appropriate forum. However, it is observed that in case there is necessity in engaging persons in future in the same capacity by the University, such

of the petitioners, who are willing to undertake such work, may be allowed to work as per the terms and conditions of the University.

5. Subject to the aforesaid observation, the writ petitions are disposed of. No costs.