

(2004) 03 MAD CK 0016

In the Madras High Court

Case No : Writ Petition No's. 15241 and 15249 of 2000

Jagannathan S.

APPELLANT

Vs

Commissioner, Tanjore Municipality and Others

RESPONDENT

Date of Decision : 25-03-2004

Acts Referred:

Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 — Section 3

Citation : (2005) 1 LLJ 806

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : A.L. Gandhimathi, for the Appellant; G. Devi and M.S. Palaniswamy, A.G.P. for Respondent Nos. 2 and 3, for the Respondent

Judgement

P.D. Dinakaran, J.—Contending that the petitioners were appointed by the first respondent/Municipality as contingent staff in the

Thiruvalluvar Theatre at Tanjore, run by the first respondent/Municipality, and that they have completed 240 days of service in twelve calendar

months, the petitioners seek a writ of mandamus to direct the respondents to regularize their services.

2. Smt. G. Devi, learned counsel for the first respondent, placing reliance on the counter-affidavit filed on behalf of the first respondent, submits

that the petitioners were appointed as contingent staff only for running the Thiruvallure Theatre at Tanjore and therefore, they are not entitled to

seek regularisation of service as municipal servants.

3. Sri M.S. Palaniswamy, learned Additional Government Pleader appearing on behalf of the respondents 2 and 3 substantiating the stand taken

by the learned counsel for the first respondent, and placing reliance on the

decisions of the Apex Court in:

(i) Ramakrishna Kamat and Others Vs. State of Karnataka and Others,

(ii) Dr. (Mrs.) Chanchal Goyal Vs. State of Rajasthan,

Submitted that temporary employees are not entitled to seek regularisation of services.

4. I have given careful consideration to the submission of both sides.

5. When an order of termination of services of the teachers appointed temporarily was challenged before the High Court of Karnataka, seeking a

further direction for regularisation of their services, the learned single Judge, while declining the prayer for regularisation, restrained the State

Government from terminating the services of the teacher till regular appointments are made. The same was also confirmed by the Division Bench of

the High Court of Karnataka. The Apex Court in Ramakrishna Kamat v. State of Karnataka (supra) refused to interfere with the order of the

learned single Judge and the Division Bench of the High Court of Karnataka, and held that the claim for regularisation is not based or founded on

any law.

6. Similarly, when the termination of services of temporary employees was challenged before the Apex Court in Chanchal Goyal (Dr.) v. State of

Rajasthan (supra), the Apex Court held that there is no scope for regularisation unless the appointment was on regular basis, and further held that

the order of termination cannot be challenged by temporary employees on the ground of long continuance in service.

7. In the instant case, it is not in dispute that the petitioners were employed only as contingent staff in Thiruvallur Theatre, Tanjore maintained by

the first respondent/ Municipality; and that they have put in more than 240 days of service in twelve calendar months.

8. In the view of the matter, I am of the considered opinion that the petitioners are entitled to the benefit of the provisions of the Tamil Nadu

Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. Therefore, except to permit the authorities constituted under

the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 to enquire into the matter and pass

appropriate orders within six months from the date of filing of such application by "the petitioners, no further orders are required in these writ

petitions. However, it is made clear that till appropriate orders are passed by the authorities constituted under the Tamil Nadu Industrial

Establishments (Conferment of Permanent Status to Workmen) Act, 1981, the respondents are restrained from terminating the services of : the

petitioners, unless and until they are otherwise disqualified to continue in service.

9. The writ petitions are disposed of accordingly. No costs.