

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition Nos. 2946 to 2956 of 2016

1. K. Ravi ... Petitioner in W.P. No. 2946 of 2016
2. R. Ramakrishnan ... Petitioner in W.P. No. 2947 of 2016
3. M. Jayamohan ... Petitioner in W.P. No. 2948 of 2016
4. A. Yusuf ... Petitioner in W.P. No. 2949 of 2016
5. M. Muthurangan ... Petitioner in W.P. No. 2950 of 2016
6. S. Rajendiran ... Petitioner in W.P. No. 2951 of 2016
7. E. Venkatesan ... Petitioner in W.P. No. 2952 of 2016
8. D. Gubendiran ... Petitioner in W.P. No. 2953 of 2016
9. K. Bharani ... Petitioner in W.P. No. 2954 of 2016
10. G. Murugan ... Petitioner in W.P. No. 2955 of 2016
11. M. Anbazhagan ... Petitioner in W.P. No. 2956 of 2016

vs.

1. The Managing Director
Tamil Nadu Water Supply and Drainage Board
No. 31, Kamarajar Salai
Chepauk, Chennai-600 005.

2. The Executive Engineer
Tamil Nadu Water Supply and Drainage Board
Maintenance Division
Gandhi Nagar
Thiruvannamalai

3. The Inspector of Labour
Thiruvannamalai

... Respondents in all
the cases

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of mandamus, directing the first respondent to implement the award dated 14.05.2014 passed in Na.Ka.No.E/2809/09 by the third respondent within the time frame.

For Petitioner : Ms.G.P.Arivuchudar

For Respondents : Mrs.Tamizharasi, for R1 and 2

Mr.R.Rajeswaran, AGP for R3

COMMON O R D E R

Heard Heard Ms.G.P.Arivuchudar, learned counsel for the petitioner and Mrs.Tamizharasi, learned counsel for the respondents 1 and 2 and Mr.R.Rajeswaran, learned Spl.Govt.Pleader for the 3rd respondent.

2. The petitioners have filed these writ petitions praying for a direction to the first respondent- TWAD Board to implement the order passed by the 3rd respondent dated 04.05.2014. By the said order, the 3rd respondent has directed the petitioners to be absorbed as a permanent employees in the respondent-TWAD Board. This order has been communicated to the first respondent as early as on May 2014. Thereafter, the petitioners have been submitting representations from August 2014 requesting for implementation of the order and to absorb them as permanent employees of the respondent- TWAD Board. However, there was no response to any of those representations, the petitioners have filed these present writ petitions to implement the award.

3. When the case came up for hearing on 28.01.2016, Mrs.Tamizharasi, learned counsel for the respondent- TWAD Board accepted notice and sought time to get instructions as to whether the respondent- TWAD Board has preferred any appeal/writ petition against the order of the 3rd respondent dated 14.05.2014. Accordingly, the matter was directed to be listed on 09.02.2016. On 09.02.2016, further time was sought for by the learned counsel for the respondent- TWAD Board to obtain written instructions from the respondent and the case has been posted today. Today, the learned counsel has circulated the current file maintained by the department, from which it is seen that the department engaged the services of another legal advisor to challenge the order dated 14.05.2014, and from the correspondence it appears that there was initially some difficulty in sanctioning the legal fee sought for by the said counsel. But, thereafter the amount has been paid but nevertheless the said legal advisor has not filed any writ petition or taken any steps to challenge the order dated 14.05.2014, thus as on date the order remains unchallenged.

Learned counsel for the respondent- TWAD Board submits that even now the respondent- TWAD Board could question the order dated 14.05.2014, by filing a writ petition and sufficiently explaining the reasons as to why the Board could not have preferred the writ petition at an earlier point of time. This court is of the view that there is no embargo on the part of the TWAD Board to challenge the order which was passed on 14.05.2014, if it is on account of a default committed by the legal advisor, it is purely an internal matter between the TWAD Board and legal advisor and this court cannot comment upon the same. Since, already more than one and half years have passed by since the order has been passed by the 3rd respondent, it is a fit case where this court should fix an outer time limit within which the respondent- TWAD Board should implement the order dated 14.05.2014.

4. Learned counsel for the petitioners submitted that identical issue was considered by this court in W.P.No.4675/04 and 3809/04 which were filed by the respondent- TWAD Board questioning the order passed by the Inspector of Labour, Theni in R.C.No.848/02 dated 29.11.2002. The said writ petitions were disposed of by a common order dated 09.02.2012, by which the writ petition filed by the respondent- TWAD Board in W.P.No.4679/04 was dismissed and the Writ petition filed by the workmen in 3809/04 was allowed directing the respondent- TWAD Board to implement the order of the Inspector of Labour, Theni dated 29.11.2002 within a period of three months from the date of receipt of a copy of the order. As against the said order, the respondent- TWAD Board preferred W.A.No.1644/2012. The said Writ Appeal was dismissed by the Hon'ble Division Bench by judgment dated 24.08.2012. Another Writ Appeal was preferred by the respondent- TWAD Board against the order in W.P.No.3809/04 in which a mandamus was issued to implement the order of Inspector of Labour, Theni. The said Writ Appeal was dismissed by the I Bench of this court by judgment dated 08.10.2012. Challenging these appeals petition for Special Leave to Appeal (Civil) Nos. 35106 - 35107/2012, were filed, which were dismissed by the Hon'ble Supreme Court by a speaking order dated 07.05.2013, after which the order passed by the Inspector of Labour, Theni has been implemented by the respondent- TWAD Board in B.P.Ms.No.31 dated 13.06.2013. Learned counsel for the petitioners submits that the petitioners herein also are similarly placed persons as that of those persons who succeeded before Inspector of Labour, Theni.

5. Learned standing counsel appearing for the respondent- TWAD Board submits that facts of each case had to be gone into and it is not an identical case and the respondent- TWAD Board has contested the matter on merits before the 3rd respondent. It may be true that those cases which were filed challenging the order passed by the Inspector of Labour, Theni, which have been

dismissed might not be an identical case, but those decisions are referred to show that similarly placed persons have succeeded before the Inspector of Labour, Theni, which order was confirmed by this court and Hon'ble Supreme Court and ultimately it was implemented by the respondent- TWAD Board. However, as on date there is no challenge to the order dated 14.05.2014, and the respondent- TWAD Board is precluded from raising such contention.

6. In the light of the above, this court is inclined to issue appropriate direction. In the result, the writ petitions are allowed and the respondents 1 and 2 are granted three months time to implement the order passed by the 3rd respondent dated 14.05.2014. However in the interregnum, it will not preclude the respondents 1 and 2 to question the said order in the manner known to law. No Costs

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Managing Director
Tamil Nadu Water Supply and Drainage Board
No.31, Kamarajar Salai ,Chepauk, Chennai-600 005.

2.The Executive Engineer
Tamil Nadu Water Supply and Drainage Board
Maintenance Division,Gandhi Nagar,Thiruvannamalai

3.The Inspector of Labour
Thiruvannamalai

+1 cc to Government Pleader sr.9975
+11 ccs to M/s.Law Square Advocate sr.10282 to 10287 and
10289 to 10293,
+11 ccs to Mrs.S.Tamizharasi Advocate sr.10058 to 10060
10061 to 10062, 10064 to 10069

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