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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.11.2016

Delivered on : 24.11.2016

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

WA.[MD]. Nos.339 and 340/2015 & MP [MD] Nos.2 & 2/2015 & CMP [MD]
No.10630/2016 in WA.[MD] No.339/2015

1.The Chairman
Tamil Nadu Electricity Board
800, Anna Salai, Chennai-2.

2.The Chief Engineer [Personnel]
Tamil Nadu Electricity Board
800, Anna Salai, Chennai-2.

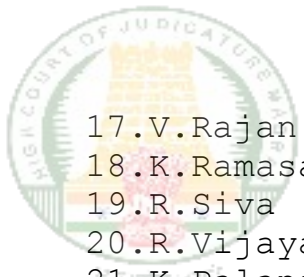
3.The Superintending Engineer
TANGEDCO, Karur Electricity
Distribution Circle, Karur.

.. Appellants
in both the writ appeals

Versus

1.The Inspector of Labour
Karur.

2.B.Kumareshan
3.M.Mathivanan
4.M.Kannan
5.G.Sampathkumar
6.M.Angamuthu
7.K.Sivakumar
8.B.Rengaraj
9.S.Narendiran
10.B.Senthil
11.D.Subburaju
12.K.Thiurmoorthy
13.M.Muruganandam
14.B.Ramachandran
15.M.Muruganandam
16.L.Murugan



17.V.Rajan
18.K.Ramasamy
19.R.Siva
20.R.Vijayakumar
21.K.Palanisasmy
22.B.Bharathi
23.M.Rajendran
24.P.Shanmugam
25.S.Kandasamy
26.M.Shanmugam
27.R.Veeramani
28.T.Karuppasamy
29.M.Natarajan
30.M.Rengasamy
31.K.Veeramani
32.M.Perumal
33.S.Bakkiyaraj
34.K.Sivasankar
35.E.Rengan
36.K.Kannadasan
37.V.Annadurai
38.M.Arighandran
39.V.Namperumal

..Respondents in WA [MD] No.339/2015

1.P.Shanmugam
2.T.Subburaj
3.K.Ramasamy
4.R.Siva
5.K.Palanisamy
6.K.Veeramani
7.L.Murugan
8.M.Maruthamuthu
9.E.Rengan
10.M.Arighandran
11.P.Bharathi
12.V.Namperumal
13.K.Sivakumar
14.R.Vijayakumar
15.M.Angamuthu
16.P.Ramachandran
17.P.Senthil

.. Respondents in WA [MD] No.340/2015

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent Act against the order of the Learned Single Judge in WP [MD] Nos.2653/2013 and 14674/2012 dated 25.08.2014.

Prayer in WP(MD)No.2653/2013:-

Writ Petition is filed under Article 226 of the Constitution of India calling this Court to issue a Writ of Certiorari, calling for the records pertaining to the common order passed by the first respondent in his proceedings in Na.Ka. No.781/2008,



782/2008, 783/2008, 784/2008, 786/2008, 787/2008, 788/2008,
791/2008, 793/2008, 794/2008, 795/2008, 796/2008, 797/2008,
798/2008, 799/2008, 800/2008, 801/2008, 802/2008, 803/2008,
804/2008, 806/2008, 807/2008, 809/2008, 810/2008, 811/2008,
812/2008, 813/2008, 814/2008, 815/2008, 816/2008, 817/2008,
818/2008, 819/2008, 820/2008, 821/2008, 822/2008, 823/2008 and
824/2008 dated 29.1.2010 and Quash the same and pass such further
or other orders as may deem fit and thus render justice.

Prayer in WP(MD)No.14674/2012:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to implement the order of the Inspector of Labour, Karur in C.P. No.809, 794, 801, 802, 804, 816, 799, 798, 820, 823, 806, 824, 787, 786, 797 and 793 of 2008, with effect to regularize the employment of the petitioners.

For Appellants in both
the Writ Appeals : Mrs.S.Srimathy for
Mr.S.M.S.Johnny Basha

For RR 2,3,5,9,23 & 28
in WA [MD] No.339/2015 : Mr.C.K.Chandrasekhar for
Mr.A.Rahul

For R24 in WA [MD]
No.339/2015 : Mr.S.Gokulraj
For RR 6 to 8, 10, 12 to
19, 21, 22, 25 to 27, 29
31 to 39 in WA [MD]
No.339/2015 : Mr.G.Sankaran

For RR4, 11, 20, 30 in
WA [MD] No.339/2015 : No appearance

For RR 1 to 5, 6 to 13
15 & 16 in WA [MD] No.
340/2015 : Mr.G.Sankaran

For R4 in WA [MD] No.
340/2015 : No appearance

COMMON JUDGMENT

M.SATHYANARAYANAN, J.,

These writ appeals are preferred by the Tamil Nadu Electricity Generation and Distribution Corporation Limited [in short "TANGEDCO"], aggrieved by the orders conferring Permanent Status by the 1st respondent /



the Inspector of Labour, Karur, on the private respondents under the provisions of the Tamil Nadu Industrial Establishments [Conferment of Permanent Status to Workmen] Act, 1981 [in short "Conferment of Permanent Status to Workmen Act"].

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2 The facts leading to the filing of these writ appeals, briefly narrated, are as follows:-

WA [MD] No.339/2015:- [against WP [MD] No.2653/2013]

The appellants / the Tamil Nadu Electricity Board [TNEB] had filed the above said writ petition challenging the common order passed by the 1st respondent - Inspector of Labour, Karur under the provisions of the above said Act, ordering conferment of permanent status on the private respondents.

{B} In the affidavit filed in support of the said writ petition, the Superintending Engineer, Karur Electricity Distribution Circle, Karur, would aver among other things that the private respondents have not worked directly under TNEB and that there is no relationship of employer and employee between them and in any event, the 1st respondent herein has no authority under the provisions of the said Act, to adjudicate their claim conferring permanent status on the private respondents and further that, the claim of the private respondents / workmen that they have worked continuously for a period of more than 480 days in 24 Calendar months, is also under serious dispute and their claim in that regard, is not factually correct and their services were engaged for execution of certain works through contractors only and the wages were paid by the said contractors to the workmen and not by TNEB. Insofar as the Service Certificates said to have been issued by the concerned Assistant Engineers of TNEB, the private respondents / workmen, it is contended that the said documents cannot be relied upon as the officials were not competent or authorised to issue the same and as such, cannot be taken as valid certificates.

WA [MD] No.340/2015 :- [against WP [MD] No.14674/2012]

The private respondents in this writ appeal filed the said writ petition praying for issuance of a writ of mandamus directing the appellants herein who were arrayed as the respondents in the said writ petition, to implement the order of the 1st respondent, viz., the Inspector of Labour, Karur, dated 29.01.2010, passed in CP.No.809/2008 etc., batch, and to regularise their employment / confer permanent status on them.

{B} In the affidavit filed in support of the writ petition, the petitioners therein / private respondents herein, would state among other things that they were appointed as employees in various positions under the 3rd appellant herein and after working in that capacity for more than the statutory period, they were optimistic that their services will be



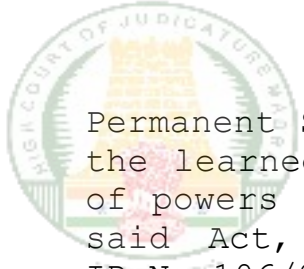
regularised and however, it was not done so and therefore, they were constrained to approach the 1st respondent herein by invoking the provisions of the Conferment of Permanent Status Act and the said official, after conducting enquiry, has passed a common order dated 29.01.2010, directing the appellants herein to confer the permanent status and despite very many representations, the said order has not been implemented and hence, they came forward to file the said writ petition.

{C} One K.Sivasankar, had also filed a contempt petition in Cont.P.[MD] No.1218/2013, alleging wilful disobedience of the order dated 26.04.2013 made in WP [MD] No.7114/2013, to punish the Superintending Engineer, Karur Electricity Distribution Circle, TNEB, Karur.

3 A learned Single Judge of this Court, has taken up the said two writ petitions, viz., WP [MD] Nos.2653/2013 and 14674/2012, as well as the contempt petition, viz., Cont.P.[MD] No.1218/2013, together for final disposal and taken note of the judgment dated 01.12.2013 made in WA [MD] No.774/2012 [*R.Ashok and 19 others Vs The Chairman, Tamil Nadu Generation and Distribution Corporation Limited [TANGEDCO]-formerly TNEB, Chennai, The Chief Engineer [Recruitment], TANGEDCO, Chennai-2, and the Superintending Engineer, Karur Electricity Distribution Circle, TANGEDCO-formerly TNEB, Karur*], wherein, the implementation of the order passed by the 1st respondent herein, came up for consideration and a positive order came to be passed, allowing the writ petitions with a further direction, directing the very same appellants herein to confer the permanent status on the private respondents therein and also taken note of the dismissal of WP [MD] No.3937/2013 and also closed the contempt petition.

4 The official respondents therein, aggrieved by the order, allowing both the writ petitions, had filed these writ appeals. This Court, while entertaining the writ appeals, had granted an order of interim stay and to vacate the same, CMP [MD] No.10630/2016 was filed.

5 Mrs.S.Srimathy, learned counsel appearing for the appellants / respondents in the above said writ petitions, would vehemently contend that the Certificates/documents produced by the private respondents / workmen / contract labourers, cannot be taken as a conclusive proof as most of the documents were issued by the concerned Assistant Engineers of TNEB and they were not authorised / competent to issue such certificates and in the light of the fact that none of the private respondents have been engaged directly by TNEB ; but were engaged by the contractors for the purpose of doing digging, laying cables etc., and that the wages <https://www.ecourts.gov.in/hcindex> services contributed by them only, their services cannot be regularised, under the garb of the orders passed by the 1st respondent herein, in terms of the provisions of the Conferment of



Permanent Status to Workmen Act. It is the further submissions of the learned counsel for the appellants that the scope of exercise of powers by the 1st respondent under the provisions of the above said Act, is very limited and small in nature. Admittedly, ID.No.106/2000 filed by some of the persons, who were similarly placed, was pending adjudication before the Industrial Tribunal and as such, the 1st respondent ought not to have entertained the petitions at all. It is the further submission of the learned counsel for the appellants that fraud has been practiced by the private respondents by producing bogus Certificates and in all fairness, the 1st respondent ought to have gone into the legality and tenability of those documents and given a finding and by a cryptic common order, has directed the appellants herein to confer the permanent status and it may lead to grave and catastrophic consequences and prays for interference.

6 Per contra, Mr.C.K.Chandrasekhar, Mr.A.Rahul, Mr.S.Gokulraj and Mr.G.Sankaran, the respective learned counsel for the private respondents would submit that the points urged by the learned counsel for the appellants were raised in the earlier round of litigations, considered and were rejected and positive orders have been passed, directing the appellants herein to confer permanent status on the private respondents and the 3rd appellant herein is also estopped from doing so, in the light of the judgment dated 01.12.2013 made in WA.[MD] No.774/2012 [cited supra], which was also confirmed by the Hon'ble Supreme Court in SLP [CC] No.7953/2015 vide order dated 30.04.2015 and as such, it is not open to the 3rd appellant herein to raise the very same issue every time whenever the litigation is filed and such a kind of attitude / act deserves to be condemned. It is further contended that the appellants/TNEB [now TANGEDCO], being a statutory Organization, is bound to comply with the orders passed by a competent statutory authority and however, for the reasons best known to them, are not doing so and also drawn the attention of this Court to the judgment reported in 2004 [3] LLN 598 [*The Superintending Engineer, Vellore Electricity Distribution Circle Vs. The Inspector of Labour and others*] and the yet another judgment reported in 2009 [4] MLJ 472 [*The Superintending Engineer, Nagapattinam Electricity Distribution Circle Vs. the Inspector of Labour and others*] and would contend that very same points were also urged, especially by the first appellant herein and were rejected and prays for dismissal of these writ appeals with exemplary costs. The respective learned counsel appearing for the private respondents, apart from relying upon the above cited two judgments, also placed reliance upon the judgments reported in 1997 [2] SCC 806 [*State of U.P. Vs. Nawab Hussain*] and 2015 [4] LLJ 736 Mad [DB] [*The Superintending Engineer, Tamil Nadu Generation and Distribution Corporation Ltd., Cuddalore Vs. [Name redacted] and another*].



7 This Court paid it's anxious consideration and best attention to the rival submissions and also perused the typed set of documents as well as the decisions relied on by the respective learned counsel for the private respondents.

8 The following questions arise for consideration in these writ appeals:-

[a] Whether the appellants / TNEB [now TANGEDCO], in the light of the judgments reported in 2004 [3] LLN 598 and 2009 [4] MLJ 472 [DB], are bound to implement the orders passed by the 1st respondent herein and thereby, confer the permanent status on the private respondents? and

[b] Whether the grounds urged by the appellants herein are hit by the principle of *res judicata*?

9 The facts leading to the engagement of the workmen in large numbers through contractors and also directly by the appellants, have been narrated in the above cited two judgments and therefore, it is unnecessary to re-state the entire facts once again.

10 In the judgment reported in 2004 [3] LLN 598, the learned Single Judge [The Hon'ble Mr. Justice F.M.Ibrahim Kalifulla - as the Hon'ble Judge then was], has traced out the history, especially, with regard to the challenge made by the Tamil Nadu Electricity Board as to the orders passed by the respective Inspectors of Labour under the provisions of the Conferment of Permanent Status to the Workmen Act, 1981 and also the writ petitions filed by the concerned workmen, through their Union and directed TNEB and its officials to implement the order passed by the respective Inspectors of Labour, ordering conferment of permanent status and to grant consequential benefits. It was also contended on behalf of TNEB that the concerned Inspectors of Labour have passed the orders, conferring permanent status on total misunderstanding of the powers vested with them and were in breach of procedure prescribed under the said Act and by ordering conferment of permanent status, they have also arrogated powers that are only available with the Adjudicated Forums constituted under the provisions of the Industrial Disputes Act, 1947. The learned Judge, while adjudicating the grounds raised by TNEB, had taken note of the judgment in *Metal Powder Company Limited, Madras and another Vs. the State of Tamil Nadu and another* reported in 1985 [2] LLN 738, wherein the validity of the Conferment of Permanent Status Act, came to be upheld and the judgment rendered by the Hon'ble Supreme Court of India, in *State of Tamil Nadu Vs. Nellai Cotton Mills* reported in 1990 [1] LLN 685, which confirmed the order, upholding the vires of the said Act and also taken note of the fact that challenge was made by the State only in respect of Explanation to Section 3 of the said Act on the ground that it was in violation of the provisions of enforcement. It is relevant to extract the following paragraphs:-

".....



in the counter nothing was placed before the Inspector of Labour. Even about the non-maintenance of the required forms under the provisions of the Act, the stand of the Board was that since they were all contract labourers, the question of maintaining those records did not arise. It is pertinent to note that while it was contended that the persons were employed as contract labourers under certain guidelines, nothing was placed before the Inspector of Labour in support of the said stand. The claim of the concerned workmen was that under the guise of contract labourers, they were asked to perform various jobs, which were required to be performed by the regular employees of the Board.

.....

35 Therefore, I am unable to accept the submission made on behalf of the Board that the exercise of the power by the Inspector of Labour in conferring permanent status after holding necessary enquiries contemplated under section 5 read along with rule 6[4] should be construed as arrogating to himself the powers available to the other adjudicatory forums created under the provisions of the Industrial Disputes Act, 1947. It will have to be stated that while the exercise of powers vested with the Inspector under the provisions of the Act is summary in nature, the one under the provisions of the Industrial Disputes act may be an elaborate one. Nevertheless the same does not mean that by exercising the power under the provisions of the Act, the Inspector of Labour would be trespassing into the adjudication process contemplated under the provisions of the Industrial Disputes act. In this context, if the judgment of the Supreme Court in *Nirchiliya* case [1990 [2] LLN 3] [vide supra] is applied, it can be safely held that where there is no prohibition under the provisions of either the Industrial Disputes Act or the Act, exercise of the power in the manner in which it can be done by the Inspector of Labour under the Act cannot be found fault with. It will have to be stated that such an exercise would be well within the statutory limitations provided under the Act. In fact, in the above-referred to judgment of the Hon'ble Supreme Court, the question for consideration was whether the workmen, who initially raised an industrial dispute under the Industrial Disputes Act, and who pursued it till its logical end when chose to move the authority under the then Madras Shops and Commercial Establishment Act, the Hon'ble Supreme



ought to be understood as applicable only to cases of contract labours as helpers, whose minimum qualifications had been set forth in the Regulations but not generally to persons who had directly employed by the Electricity board itself on temporary basis but who continued in employment for more than 480 days, and who belonged to the class of persons below the rank of helpers for whom alone the Regulations prescribed a minimum educational qualification of National Trade Certificate (NTC)/ National Apprenticeship Certificate (NAC) courses. This situation has been substantially considered in the decision of the learned single judge in *Superintending Engineer, Vellore Electricity Board Distribution Circle, Vellore v. Inspector of Labour* reported in 2004 3 LLN 598. This decision itself is the subject of challenge before us but the board has, by entering in to the settlement which is in challenge, has literally made the appeals infructuous by giving in to the claims of the workmen and endorsing the correctness of the judgment. The actual status of several of the workmen had been dealt with in the judgment of the learned Judge in paragraphs 33 and 34 that adverted to the factual findings rendered by the Labour Inspector that all those workmen so called as contract labourers were actually appointed directly by the board and therefore, the applicability of the Tamil Nadu Industrial Establishments (Conferment and Permanent Status of Workmen) Act were clearly attracted. The Supreme Court has also held that creation of new posts, even if such exercise reduces chances of promotion to the existing cadre, could not be objected *Bakshish Singh v. Union of India* reported in MANU/SC/0331/1985 : AIR1985SC1272 . Instances when additional cadres have been created, when Courts have expressed themselves in favour of such exercises have been in, *Shujatali v. Union of India* reported in MANU/SC/0371/1974 : (1976) IILLJ115SC ; *Dharampal v. FCI* 2000 (IV LLJ) Supplement 355; *APSRTC Employees Union v. APSRTC* 1995 2 SLT 761.

23 If this was only a case of adjudication of whether the status of workmen was as directly employed by the Electricity Board or they were employed only as contract labourers, we would have directed that the objection should be considered and

adjudication made in the industrial dispute raised under Section 33(2)(b) of the Industrial Dispute Act. The argument advanced by



Shri. Hariparanthaman is that the fate of more than 21,000 workmen was being adjudicated before the Labour Court in I.D. No. 106 of 2003 and that would be the appropriate forum of adjudication. He urged that the petitioner in W.P. No. 27714 of 2007 and connected writ petitions ought to have been directed only to challenge the agreement before the Industrial Tribunal and not by means of writ petition. We have already seen that remedy by writ petition itself is not barred and if the board as an employer has conceded to their status as workmen to whom the provisions of the T.N. Industrial Establishments (Conferment of Permanent Status Act) could be applicable, there is no warrant for directing the parties to seek adjudication before the Industrial Tribunal. We cannot hold that the agreement itself is tainted with any fraud or mala fides. As Shri. P.S. Raman, the learned Additional Advocate General appearing for the Electricity Board says that it is simply a case of the board not allowing itself not to be tied up in knots over a period of time in having adhoc policies of recruitment and feels upstaged when a problem of gigantic proportion has arisen where claims to thousands of men and women were required to be addressed. A public body employing several thousands of persons could not be blind to realities and engage them in long litigations and if it is found that pragmatism dictated that there ought to be a finality to litigations and when it had already a judicial decision of a Single Judge directing permanent status to workmen under the Act, the pro-active poser to conclude all litigations by an agreement could not be challenged either as fraudulent or as illegal. Revival of cadre or increase of cadre strength and specifying lesser qualifications commensurate with the nature of work through Board Proceedings could not be faulted, so long as the Regulations provided for creation of such cadre.

24 Under the circumstances, we are convinced that the settlement entered in to by the board with workmen and union is valid and enforceable. We, however, qualify the same that it shall be subordinated only to the extent that the claims of ITI trained workmen that the Regulation demands for the post of 'helpers' are not discarded.

25 We therefore, direct that persons who ought to have been taken in employment against vacancies



that were directed to be filled by the Supreme Court pursuant to Khalid Commission's report shall first be filled up before other vacancies are undertaken to be filled up. The writ petitions challenging the 18 (1) settlement will stand dismissed, except to the extent mentioned in paras 23 and 24 above. Age relaxation, wherever necessary to accommodate them shall be given. Similarly, the writ petitions challenging the board proceedings 36 and 37 of the Administrative Branch dated 29.10.2005 will also stand dismissed. The claims of persons before the Labour Inspectors which have been allowed and who have come before this Court seeking for issue a mandamus for enforcement will now be considered under the 18 (1) settlement. The writ petitions filed by the Electricity Board challenging the orders of the Labour Inspectors will now be dismissed as infructuous having regard to the 18 (1) settlement. The appeals filed by the board against the decision of the learned single will also stand dismissed. The claims of the workmen in W.P. No. 1033 of 2006 and the connected batch will not stand affected by the decision of this Court and the Labour Court will decide on their claims in I.D. No. 106 of 2003 in the light of what we have observed, in so far as they are relevant and independently of the same on factual issues whether they have been directly employed by the Electricity Board or not. The Writ Petitions and Writ Appeals are disposed of accordingly. No costs."

13 Tvl.Ashok and 19 others had filed WP [MD] No.5822/2012 [reported in 2013-II-LLJ-562 [Mad]] against the appellants herein, praying for issuance of a writ of mandamus, to regularise their services in pursuance of the orders passed by the 1st respondent herein and the said writ petition came to be dismissed and aggrieved by the same, they filed WA [MD] No.774/2012 and the said writ appeal came to be allowed on 01.12.2013. A perusal of the said judgment would disclose among other things that the very same grounds urged by the appellants herein and the submissions put forth by the learned counsel for the appellants, were considered and the Division Bench has taken note of the provisions and various judgments and in paragraph No.25, held that "the Inspectors appointed under the Act are not a paper-tigers. They have the duty and authority to pass orders enabling the eligible workers to have permanent status in the industrial establishment." In paragraph 33, it has been held that the workers need not go to the Labour Court alone by raising services and dispute and they can seek relief under the Tamil Nadu Act 46 of 1981 [Conferment of Permanent Status Act]. The Division Bench has also taken note of the Metal Powder's case



[cited supra] and rendered the following factual findings:-

".....

47 In the case before us, the workers have presented their petition, furnished details of their employment, they have also produced the documents issued by the officers of the Board evidencing their employment with the Board and the nature of jobs done by them. The Board has taken a consistent view that they were not employed by it and they were employed under an independent contractor and that there was no employer-employee relationship as between them and the Board. But, the Board did not produce any material to show that they were so employed under an independent contractor. Not even details of such contractor has been furnished. No material or document to contradict the documents produced by the appellants, which have been issued by the Board's Officials itself has been produced by the Board.

.....

49 Considering the materials produced, the Inspector of Labour, Karur, came to the conclusion that the appellants are not contract labourers, but casual labourers of the Board. Further, the Inspector recorded a finding that these appellants have completed 480 days within a period of 24 Calendar months and also furnished their details in a tabular form appended to his order dated 15.02.2010. Thus, the findings of the Inspector of Labour, is not perverse and it is backed by evidence."

14 Thus, citing the above reasons, the writ appeal was allowed on 01.12.2013 and the very same appellants herein, made a challenge to the said judgment, by filing SLP.CC.No.7953/2015 and vide order dated 30.04.2015, the Hon'ble Supreme Court of India, passed the following Order:-

"Taken on Board.

Heard Mr.L.Nageshwara Rao, learned Senior Counsel appearing for the petitioner.

The Special Leave Petition is dismissed on the ground of limitation and merit. However, it will not be treated as a precedent in future.

Mr.Rao, learned Senior Counsel, very fairly submits that some time may be allowed for implementation of the impugned orders passed by the High Court.

The petitioner is granted two weeks time to implement the impugned orders passed by the High Court. Till then, no coercive steps shall be taken against the petitioner."

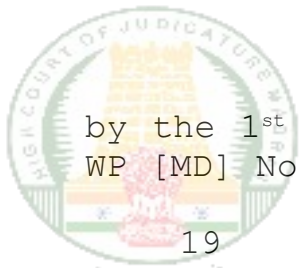


15 The Hon'ble Apex Court, while dismissing the Special Leave Petition, had also taken note of the plea made on behalf of the appellants herein, praying for time to implement the orders.

16 In the judgment reported in 2015 [4] LLJ 736 [Mad] [P.Kothandam's case cited supra], in which one of us was a party [M.SATHYANARAYANAN, J], review applications were filed challenging the judgment rendered by the Division Bench in WA.Nos.1340 and 1341 of 2012 dated 10.07.2012 and WA.Nos.1342 to 1363/2012 dated 11.07.2012 and the said writ appeals were dismissed, so also, the review applications and Special Leave Petitions were preferred before the Hon'ble Supreme Court of India in Special Leave to Appeal [Civil] Nos.24740 to 24741/2012 and while dismissing the same, the Hon'ble Supreme Court of India, observed that the dismissal of the Special Leave Petitions will not preclude the applicant, viz., the Superintending Engineer, TANGEDCO, Cuddalore, to apply to the High Court, for review concerning the matter where it has been alleged that the Awards passed by the Inspectors of Labour, Cuddalore, Villupuram, Madurai, Erode, Nagapattinam, Theni Division and Salem, are forged. The Division Bench, while dealing with the issue, had taken note of number of judgments including the judgment reported in 2009 [4] MLJ 472 [Mad] [cited supra] and also summoned the records and found that the plea made by the applicant therein as to the fabrication of the records, was not all substantiated and therefore, dismissed the review applications on the ground that there was no error apparent on the face of the record and the plea of fraud and fabrication was also not substantiated.

17 In the light of the above cited judgments, this Court is of the considered opinion, that the legal plea raised by the learned counsel for the appellants herein, as to the implementation of the order passed by the 1st respondent - Inspector of Labour, Karur, is not at all sustainable and deserves objection. It is also the submission of the learned counsel for the appellants that the Certificates relied on by the private respondents herein, though issued by the concerned Assistant Engineers of TNEB, cannot be relied upon for the reason that they are not authorised or competent to issue those certificates.

18 It is very pertinent to point out at this juncture that the orders conferring permanent status was passed by the 1st respondent herein on 29.01.2010 and for implementation of the same, the private respondents filed WP [MD] No.14674/2012 and subsequently, WP [MD] No.2653/2013 was filed by the appellants herein, challenging the legality of the said order. The very same plea put forth by the Superintending Engineer, Vellore Electricity Division, Vellore, was considered in the judgment reported in 2004 [3] LLN 598 [cited supra] and the said submission was rejected and this Court has also gone through the order passed



by the 1st respondent which was the subject matter of challenge in WP [MD] No.2653/2013 [WA [MD] No.339/2015].

19 The said order runs to 84 pages and the 1st respondent had analysed the Certificates / documents produced on behalf of the private respondents and reached the factual finding, stating that the private respondents deserves permanent status and accordingly, passed the order. It is a well settled position of law that this Court, in exercise of the jurisdiction under Article 226 of the Constitution of India, cannot re-appreciate the factual findings rendered by the competent authority unless it is shown that the said findings are perverse or based upon 'no evidence'. This Court, testing the common order passed by the 1st respondent, is of the considered view that the said official has exercised his statutory power well within the ambit of law and also carefully analysed the documents and other materials placed and rightly reached the conclusion and thereby ordered conferment of permanent status on the private respondents. Furthermore, since the legal plea raised herein has been settled in the earlier round of litigations, it is not open to the appellants herein to urge the very same point in future litigations and even otherwise, there is no infirmity or perversity attached to the findings rendered by the 1st respondent and therefore, the said order does not warrant interference.

20 It is to be pointed out at this juncture that a Division Bench of this Court, while disposing of WA.No.1302/2013 etc., batch reported in 2009 [4] MLJ 472 [DB] [cited supra], in paragraph 23, observed that *"a public body employing several thousands of persons, could not be blind to realities and engage them in long litigations and if it is found that pragmatism dictated that there ought to be a finality to litigations and when it had already a judicial decision of a single Judge directing permanent status to workmen under the Act, the pro-active poser to conclude all litigations by an agreement [under section 18[1] of the Industrial Disputes Act, 1947] could not be challenged either as fraudulent or as illegal."*

21 Thus, the appellants herein exhibited pragmatism in the form of Settlement u/s.18[1] of the Industrial Disputes Act, 1947, though they were not under obligation to do so. Hence, they can accommodate the private respondents herein in compliance of the order passed by the 1st respondent - Inspector of Labour, Karur.

22 This Court, on a careful scrutiny and analysis of the entire materials placed before it, is of the view that there is no error apparent on the face of the record or infirmity in the order passed by the 1st respondent. WP [MD] Nos.2653/2013 and 14674/2012 and finds no merit in these writ appeals.



23 In the result, the writ appeals are dismissed, confirming the order dated 25.08.2014 made in WP [MD] Nos.2653/2013 and 14674/2012. Consequently, the interim order granted in MP [MD] Nos.2 & 2 of 2015 is vacated and the miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

The Inspector of Labour, Karur.

+One cc to Mr.S.M.S.Johnny Basha, Advocate, SR.No.72240

+30ccs to Mr.G.Sankaran, Advocate, SR.NO.73305

+2ccs to Mr.A.Rahul, Advocate, SR.Nos.72375 and 72383

AP
RL/35C/17P/SK/SKN/SAR3/30.11.2016

Common Judgment in

WA [MD] Nos.339 & 340/2015

24.11.2016