



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.1111 of 2017
and
C.M.P. (MD)No.7605 of 2017

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maligai,
Chennai-600 002.

2.The Chief Engineer Personnel
Tamil Nadu Generation and Distribution
Corporation Limited, TNEB,
No.144, Annasalai, Chennai-600 002.

3.The Superintending Engineer,
Purchase and Administration,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tuticorin Thermal Power Station,
Tuticorin-628 004.

.. Appellants

Vs.

1.V.Sasikumar
2.S.Pethaiah
3.P.Arunachalam
4.V.Chidambaram
5.K.Mariappan
6.S.Raj
7.S.Ganesan
8.S.Kandasamy
9.V.S.Mariappan
10.S.Manikandan

.. Respondents

PRAYER: This Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 23.01.2015 made in W.P.

Prayer in WP(MD). 18123/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directi the Respondents to confer permanent status to the Petitioners from the date of competition of 480 days of their joining in the service of the 3rd Respondent and consequently direct the Respondents to grant the service benefits of promotion, back wages, continuity of service, family pension benefits and all other concomitant service benefits eligible tot he petitioners.

For Appellant : M/s.P.Malini

For Respondents : Mr.V.Sasi Kumar
for Mr.M.Saravanakumar

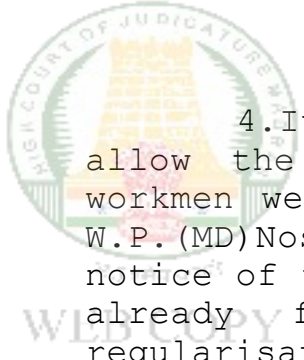
J U D G M E N T

[JUDGMENT of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This writ appeal is filed against the order dated 23.01.2015 allowing W.P.(MD)No.18123 of 2014 filed by the respondents herein.

2.The respondents herein were appointed as Helpers in the year 1997 in Tamil Nadu Electricity Board. They had completed 480 days in 24 months and were eligible for permanent absorption. But they were terminated on 27.10.1999. Some of the terminated workers moved the authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. The said authority allowed their petition by order dated 02.01.2001. This was challenged in W.P.(MD)No.9729 of 2007. The writ petition was dismissed. Questioning the same, the appellant herein filed W.A.(MD)No.311 of 2004. The said writ appeal was also dismissed. Since the case of the respondents herein was similar to those covered in W.A.(MD)NO.311 of 2004 dated 17.11.2008, they gave a representation. Since no order was passed on the said representation, they filed W.P.(MD)No.281 of 2012. The said writ petition was taken up by the Division Bench of this Court along with W.A(MD)No.1491 of 2011 and by order dated 06.11.2012, a direction was given for absorbing the writ petitioners as Helpers with permanent status. Thereafter, the present writ petition in W.P.(MD)No.18123 of 2014 was filed by the petitioners herein for directing the appellants herein for conferment of permanent status from the date of completion of 480 days of their joining service. They also sought consequential relief. This was allowed by the learned Single Judge by order dated 23.01.2015. Aggrieved by the same this intra Court appeal has been filed by TANGEDCO.

<https://hcservices.ecourt.gov.in/hcservices> Now the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.



4. It is seen that the learned Single Judge was pleased to allow the writ petition on the ground that similarly placed workmen were given the same relief in W.A.(MD)No.311 of 2004 and W.P.(MD)Nos.10054 to 10057 of 2011. But it was not brought to the notice of the learned Single Judge that the respondents herein had already filed W.P.(MD)No.281 of 2012 and the order of regularisation was passed on 03.05.2013 pursuant to the order passed by this Court on 06.11.2012. Therefore, the respondents herein cannot be allowed to seek relief in instalments. If they had any grievance with regard to the scope of relief granted in W.P.(MD)No.281 of 2012 dated 06.11.2012, they should have filed SLP or review. They cannot file one more writ petition. It is pertinent to note here that the similarly placed workmen had been agitating from a much earlier period. They had approached the Court with gross delay. Therefore, the learned Single Judge was not justified in granting the relief sought for by them in the present round of writ petition.

5. Admittedly, the respondents herein did not do any work from 01.05.1999 to 02.05.2013. Therefore, the principle of 'no work no pay' is clearly applicable to the facts of this case. The learned Judge had taken note of the conduct of the respondents herein. Similarly placed individuals moved the competent authority under the relevant Statute and after filing of writ petition and writ appeal got relief. Based on the order made in W.P.(MD)No.311 of 2014 one more set of employee also moved this Court obtained relief. Thereafter only, the respondents herein filed W.P.(MD)No.281 of 2012 and got order for regularisation. Then they filed W.P.(MD)No.18123 of 2014 for back wages and for regularisation right from the year 1999. This is clearly not maintainable. The order dated 23.01.2015 made in W.P.(MD)No.18123 of 2014 is set aside. The Writ Appeal stands allowed. No costs. Consequently, C.M.P.(MD)No.7605 of 2017 is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

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Corporation Limited,
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Tuticorin Thermal Power Station,
Tuticorin 628 004.

+ 1 cc TO Mr.M.Saravanakumar , Advocate in SR No. 72961
+ 1 cc TO M/s.P.Malini , Advocate in SR No. 72760

rmi/vsg
AE/KK/SAR2/05.12.2017/4P/6C

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