



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2017

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

WP(MD).Nos.19019 and 19161 of 2016

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WP(MD)No.19019 of 2016

1.P.Sakthivel

2.A.Senthilkumar

3.A.Viswanath

4.P.Seenivasan

5.S.Balachandran

6.P.Muthukani

7.A.Krishnasamy

8.P.Kannan

9.R.Velmurugan

10.M.John Pandiyan

11.P.Paramasivan

12.D.Gurunathan

13.K.Velusamy

14.S.Mahesh

15.P.Shanmugaraj

16.L.Muthuramalingam

17.C.Mariappan

... Petitioners

Vs.

1.The Inspector of Labour,

(authority under the Tamil Nadu (Industrial
establishment) (Conferment of Permanent status
to the workman) Act 1981,

Thoothukudi Electricity Taluk,

Ettaiyapuram Road,

Thoothukudi, Thoothukudi District.

2.The Superintendent Engineer,

TANGEDCO,

Thoothukudi Electricity Board,

Ettaiyapuram Road,

Thoothukudi,

Thoothukudi District.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 2nd respondent to implement the award passed by the 1st respondent in his proceedings எண்/ந/க/இ/3927/09 மற்றும் 3928/09 dated 01.12.2015 under the Tamil Nadu (Industrial establishment Conferment of Permanent status to the workman Act 1981) by absorbing the petitioners in their respective posts within the period that may be stipulated by this Court.

WP(MD)No.19161 of 2016

1.S.Rameshkumar

2.A.Selvakumar

3.P.Amalraj

4.C.Rajasekar

5.P.Mariappan

... Petitioners

Vs.

1.The Inspector of Labour,

(authority under the Tamil Nadu (Industrial
establishment) (Conferment of Permanent status
to the workman) Act 1981,

Thoothukudi Electricity Taluk,

Ettaiyapuram Road,

Thoothukudi,

Thoothukudi District.

2.The Superintendent Engineer,

TANGEDCO,

Thoothukudi Electricity Board,

Ettaiyapuram Road,

Thoothukudi,

Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 2nd respondent to implement the award passed by the 1st respondent in his proceedings எண்/ந/க/இ/2138/11 dated 11.12.2015 under the Tamil Nadu (Industrial establishment Conferment of Permanent status to the workman Act 1981) by absorbing the petitioners in their respective posts within the period that may be stipulated by this Court.



(In both the WPs)

For Petitioners: Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates

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For Respondents: Mr.K.Guru (for R1)
Additional Government Pleader
Mrs.S.Srimathy (for R2)

COMMON ORDER

The Petitioners have approached this Court to issue a writ of Mandamus, to direct the 2nd Respondent to implement the award passed by the 1st respondent in his proceedings in N.J.O/3927/09 and 3928/09 dated 01.12.2015 and 2138/2011 dated 11.12.2015 respectively, under the Tamil Nadu Industrial Establishment Conferment Permanent Status to the Workmen Act, 1981 by absorbing the Petitioners in their respective posts within a time frame.

2.It is the case of the Petitioners that all of them are hailing from rural background and where engaged by the 2nd Respondent for the execution of various works for the past several years and they were paid with meager salary. However the 2nd Respondent executed a settlement under section 12(3) of Industrial Dispute Act, 1949 and through the said settlement similarly placed employees as that of the Petitioners were absorbed into regular vacancy. The further case of the Petitioners is that as per the service rendered by them, they also entitled to get their service regularized in terms of the aforesaid settlement. However, as their service was not regularized as that of the similarly placed persons into the regular vacancies the Petitioner's approached the 1st Respondent to get redressed.

3.The further case of the Petitioner is that all the Petitioners have rendered 480 days of continuous service into 24 months, they are entitled to get their service regularized in view of the Tamil Nadu Industrial Establishment Conferment of Permanent Status to the Workmen Act 1981. As their grievance was not redressed by 2nd Respondent the Petitioners were constrained to approach the 1st Respondent under the provisions of the aforesaid Act. In considering the claims of the Petitioners, the 1st Respondent vide his award in N.J.O/3927/09 and 3928/2009 dated 01.12.2015 directed the 2nd Respondent to confer permanent status to the Petitioner's in their respective posts. However, even after the award passed by the 1st Respondent, the 2nd Respondent was not ready to implement the



award of the 1st Respondent. So, they preferred a representation dated 10.06.2016 to the 2nd Respondent with a request to absorb the Petitioner's permanently into their respective posts. However, even after the receipt of the representation no legal action was initiated.

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4.The learned counsel for the Petitioners would submit that the order passed by the 1st Respondent is a quasi judicial order and the 2nd Respondent is liable to implement the same in terms of the order passed on 01.12.2015. The learned counsel for the Petitioners would draw the attention of the Court that as against the award passed by the 1st Respondent, the same was not challenged by the authorities concerned before the appellant forum. So, the 2nd Respondent is duty bound to implement the order of the 1st Respondent in its true letter and spirit.

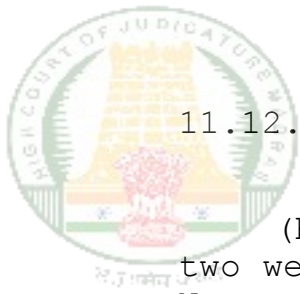
5.Per contra, the learned counsels for the respondents would submit that though the order passed by the 1st Respondent is in view of the aforesaid act it is for the 2nd Respondent to implement the same by adopting due process of law. However, the learned counsel for the 2nd Respondent is unable to justify the delay caused by the 2nd Respondent in implementing the order passed by the 1st Respondent.

6.I heard Mr.M.Ajmal Khan, learned senior counsel for the petitioners, Mr.K.Guru, learned Additional Government Pleader for the 1st respondent and Mrs.S.Srimathy, learned counsel for the 2nd respondent in both the writ petitions and perused all the materials available on records.

7.It is not in dispute that the order passed by the 1st Respondent is not challenged by the 2nd Respondent before the competent authority. However it is for the 2nd Respondent to implement the order of 1st Respondent as per the aforesaid act 1981. When the award passed by the 1st Respondent is not taken up for challenge, it is the duty of the 2nd Respondent to implement the same without any deviation. So, this Court has no hesitation to allow the writ petition.

8.In the result:

(a) both the writ petitions are allowed by directing the 2nd respondent to implement the award passed by the 1st respondent in his proceedings No.Na.Ka.E/3927/09 and 3928/09 dated 01.12.2015 and No.Na.Ka.E/2138/11 dated



11.12.2015 respectively in its letter and spirit;

(b) the said exercise shall be done within a period of two weeks from the date of receipt of a copy of this order.
No costs.

/True copy/

Sd/-
Assistant Registrar(CO)

Sub Assistant Registrar

To

1.The Inspector of Labour,
Thoothukudi Electricity Taluk,
Ettaiyapuram Road,
Thoothukudi,
Thoothukudi District.

2.The Superintendent Engineer,
TANGEDCO,
Thoothukudi Electricity Board,
Ettaiyapuram Road, Thoothukudi,
Thoothukudi District.

+2cc to M/S.AJMAL ASSOCIATES,Advocate,SR.10317

WP(MD) .Nos.19019 and 19161 of 2016
24.02.2017

VSA/SKN
KK/SV MMS/SAR 1/08.02.2018/ 5P- 5C/