

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.7.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1527 of 2018

1. M.D.Murthy
2. P.Kandharoopan
3. S.Jayaraman
4. G.Jayabalan
5. G.Ramadoss

Appellants

Versus

1. Tamil Nadu Electricity Board,
rep. by Chief Engineer Personnel
O/o. Chairman TNEB, Anna Salai,
Chennai 600 002.
- 2 The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirupattur Electricity Distribution Circle,
Tirupattur, Vellore District.
3. The Inspector of Labour,
Vellore, Vellore District.
4. The Presiding Officer,
The Principal Labour Court,
Vellore.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 4.4.2016 passed in W.P.No.7129 of 2014 on the file of this court.

W.P.No. 7129 of 2014 : Petition under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records relating to the order passed by the Seventh respondent made in computation petition No. 15 of 2012 dated 31/07/2013 and quash the same.

For appellants	: Mr.S.N.Ravichandran
For RR1 and 2	: Mr.Anandagopal for M/s.T.S.Gopal
For R3	: Mr.P.S.Sivashanmugasundaram Special Government Pleader

JUDGMENT

(Judgment of the court was made by M.DHANDAPANI, J.)

Heard the learned counsel appearing for the appellants, Mr.Anandagopal, learned counsel, who takes notice on behalf of respondents 1 and 2 and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, who takes notice on behalf of the third respondent.

2. Brief and undisputed facts behind the filing of the present writ appeal are as follows:-

The appellants are Ex-Servicemen. After discharge from defence service, they applied for appointment in the Electricity Board through Ex-servicemen Welfare Association and they were appointed as Watch and Ward on contract basis for a period of three years on 10.9.1997. Thus, on and after September 2000, they had no right to continue in the job. However, on 19.6.2000, they submitted an application before the Inspector of labour, seeking permanency and parallelly, they moved this court by way of W.P.No.5038 of 2001 and an order of status quo with regard to their employment was granted by this court. Thus, their services beyond the period of contract had to be extended and they continued in employment. Thereafter, the Inspector of Labour, exercising his power under the provisions of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, allowed the Claim Petition by order dated 4.6.2001 and directed the Board to grant permanent status to the appellants and others. Challenging the said order, the Board preferred W.P.No.18848 of 2002 and an order of interim stay was obtained and thereafter, that matter alongwith a series of litigations was placed before a Division Bench and the Division Bench, recording the undertaking given by the Board to regularize the services of the appellants as Watch and Ward, such cases were disposed of. Accordingly, it appears that the services of the appellants were regularised. It further appears that prior to such absorption, a specific undertaking was given by the appellants and similarly placed persons, stating that they were not entitled to any benefits whatsoever, based on their previous engagement as watch and Ward and only thereafter, the Board Proceedings No.35 dated 27.9.2008 were issued. However, the appellants herein, subsequently moved the Principal Labour Court, Vellore, by filing computation petition in C.P.No.15 of 2012 on the strength of the earlier order passed by the Labour Court dated 4.6.2001 directing to confer permanent status to the appellants and the Labour Court allowed the computation petition and directed the Board to compute and pay the monetary benefits to each of the employees towards arrears of backwages. Challenging the said award, the Board has come up with the writ petition.

3. The learned Single Judge, after elaborate discussion of the facts and circumstances of the case, allowed the writ petition. Challenging the same, the employees had come up with the present writ appeal.

4. Learned counsel appearing for the appellants, relying upon the decision in *TAMIL NADU TERMINATED FULL TIME TEMPORARY LIC EMPLOYEES ASSOCIATION v. LIC* ((2015) 9 SCC 62), would submit that when an award is passed by the Labour Court or Industrial Tribunal, it would be binding till it is substituted by another award/court order/court compromise indicating such substitution, or is replaced by another settlement or terminated by either party under Section 19(6) of the Industrial Disputes Act.

5. Having heard the learned counsel appearing for the parties, we find that the learned Single Judge has held that the Labour Court has erred in allowing the computation petition ignoring the fact that the earlier order dated 4.6.2001 passed by the Labour Court got merged with the order of the Division Bench and all the directions/observations contained in the order of the Division Bench would bind both the parties and therefore, the appellants cannot resile themselves from the said order and state that they are entitled to make a challenge to the prospectivity of the proceedings in B.P.No.35 and accordingly, allowed the writ petition.

6. In our view, the learned Single Judge, having appreciated the factual aspects in a proper perspective and has come to the right conclusion that the earlier award passed by the Labour Court got merged with the decision of the Division Bench in endorsing the proposal of the Board to regularize the employees with prospective effect and the appellants herein, having accepted the same and given an undertaking, cannot make a challenge to the prospectivity of the order regularizing their services.

7. We do not find any reason to interfere with the well reasoned order passed by the learned Single Judge. Accordingly, the writ appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

ssk.

To:

1. The Chief Engineer Personnel,
Tamil Nadu Electricity Board,
O/o. Chairman TNEB, Anna Salai,
Chennai 600 002.
- 2 The Superintending Engineer,
Tamil Nadu Electricity Board,
Tirupattur Electricity Distribution Circle,
Tirupattur, Vellore District.
3. The Inspector of Labour,
Vellore, Vellore District.
4. The Presiding Officer,
The Principal Labour Court,
Vellore.

+1cc to Mr.S.N.Ravichandran, Advocate SR.No.47978

W.A.No.1527 of 2018

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GN(29/08/2018)



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