



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12226 of 2014

and

MP(MD)No.1 of 2014

&

MP(MD)Nos.1 & 2 of 2015

The Executive Engineer, TWAD Board,  
Project Division (Ramanathapuram  
Combined Water Scheme),  
Sivagangai.

... Petitioner

Vs.

1.The Inspector of Labours,  
Sivagangai.  
2.N.Sundaramahalingam  
3.U.Prabhakaran  
4.K.Chandrasekar  
5.I.Jeeva  
6.M.Velmurugan  
7.K.Malairaj  
8.M.Muthukumar  
9.K.Balamurugan  
10.R.Senthilkumar  
11.S.Balamurugan  
12.T.Periyasamy  
13.M.Ramanathan  
14.S.Mahadevan

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned order bearing A/15/2012 dated 11.06.2014 passed by the first respondent and quash the same.

For Petitioner : Mrs.Porkodi Karnan  
For Respondents : Mrs.S.Srimathy,  
Special Govt.Pleader for R1  
Mr.S.Arunachalam  
for R2 to R14

ORDER

The petitioner - TWAD Board questions the order dated 11.06.2014 passed by the Inspector of Labour, Sivagangai granting the permanency status to the private respondents herein. The



private respondents herein filed applications before the first respondent contending that they were employed under the Board for 480 days in 24 consecutive calendar months and that therefore they should be conferred with the status of permanent workmen.

2. In the applications filed before the first respondent/the Inspector of Labour, Sivagangai the dates on which they joined duty and the dates on which they completed 480 days have all been set out. The Board does not dispute those factual details. The defence projected by the Board is that the workmen were engaged by the contractor to whom the petitioner outsourced the work of maintenance of the water supply. In other words, the case of the petitioner is that there is no direct employer-employee relationship between the Board and the private respondents herein. The first respondent however allowed the applications filed by the private respondents, by order dated 11.06.2014 and the same is now under challenge in this writ petition.

3. There is no dispute about the applicability of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, to this case. What goes against the petitioner is that they had not chosen to register themselves under the provisions of the The Contract Labour (Regulation and Abolition) Act, 1970. Admittedly, the person who is referred to as the contractor for the workmen was not a licensed contractor. In similar circumstances, it was held that the contractor system was a mere smoke screen and that therefore the veil has to be lifted. It is also seen that the contractors were changed once in two years. But, the private respondents continued to do the same work. This again establishes the perennial nature of the work.

4. The petitioner being a state Government undertaking ought to act as a model employer. This Court as well as the Hon'ble Division Bench had upheld similar orders passed by the first respondent. The case on hand is no different. The first respondent had rightly rejected the defence of the petitioner Board that there is no employer-employee relationship and that the remedy provided to the respondents herein is to proceed against the so called contractor.

5. In these circumstances, no case is made out. No interference is called for. The order impugned in this writ petition is sustained. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (Crl. side)

/True Copy/



To

The Inspector of Labours,  
Sivagangai.

+1cc to M/S.Porkodi Karnan, Advocate SR.No. 50856

+1cc to M/S.S.Arunachalam, Advocate SR.No. 50751

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