



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P. (MD)Nos.17082, 17083 and 17084 of 2015

and

M.P. (MD)Nos.1,1 and 1 of 2015

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W.P. (MD)No.17082 of 2015

1.The Executive Engineer,
TWAD Board,
Maintenance Division,
Tirunelveli.

2.The Assistant Executive Engineer,
TWAD Board,
Maintenance Division,
Alangulam,
Tirunelveli District.

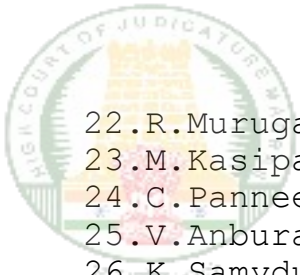
3.The Assistant Engineer,
TWAD Board,
Maintenance Division,
Alangulam,
Tirunelveli District.

... Petitioners

Vs

1.The Inspector of Labour,
Tirunelveli.

- 2.V.K.Mariyappan
- 3.R.Manimaran
- 4.R.Sundar
- 5.P.Mariyappan
- 6.J.Mariyappan
- 7.K.Muppidathi
- 8.M.Balasubramanian
- 9.S.Jabherali
- 10.S.Ramar
- 11.M.Ramayya Pandian
- 12.S.Mani
- 13.R.Ramayya
- 14.R.Regupathi
- 15.R.Kartheesan
- 16.P.Subramanian
- 17.A.Sakthivel
- 18.K.Mathiyalagan
- 19.S.Murugan
- 20.M.Karuppasamy
- 21.M.Muthukumar



22.R.Murugaiah
23.M.Kasipandi
24.C.Panneerselvam
25.V.Anburaj
26.K.Samydurai
27.A.K.Mariyappan
28.K.Balamurugan
29.R.Velmurugan
30.M.Madhavan
31.S.Durairaj
32.R.Thirumoorthy
33.K.Ganeshan
34.P.Manikkam
35.S.Madasamy
36.R.Ponnaiah
37.S.Murugan
38.S.Ayyadurai
39.V.Madajevan
40.S.Ganapathi
41.S.Muthukutti
42.S.Harikrishnan
43.P.Thangadurai
44.R.Ramar
45.K.Maduraiveeran
46.V.Krishnan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 1st respondent in C.P.S.No.3581/2010 to 3644/2010 dated 23.04.2015 only with respect to the List I of the order and the Labours who had been made as respondents 2 to 46 herein and quash the same.

For Petitioner : Mr.Porkodi Karnan

For R1 : Mr.K.Mu.Muthu
Additional Government Pleader

For : Mr.Veerakathiravan,
R2,3,5&8 Senior Counsel
for Mr.B.Karuppasamy

W.P. (MD) No.17083 of 2015

1.The Executive Engineer,
TWAD Board,
Maintenance Division,
Tirunelveli.

<https://hcservices.ecourts.gov.in/hcservices/>
2.The Assistant Executive Engineer,
TWAD Board,



Maintenance Division,
Tirunelveli District, Valliyur.

3.The Assistant Engineer,
TWAD Board,
Maintenance Division,
Alangulam,
Tirunelveli District,Valliyur.

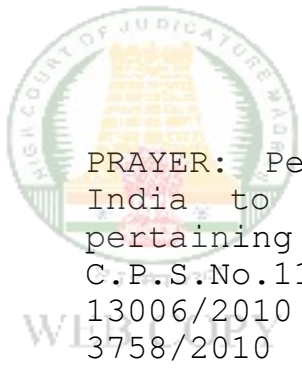
... Petitioners

Vs

1.The Inspector of Labour,
Tirunelveli.

2.S.Ramachandran
3.Varadharaj
4.S.Essakimuthu
5.P.Anandaraaj
6.R.Rengakrishnan
7.R.Ravikumar
8.J.Rajagopal
9.C.Nagarajan
10.C.Dhanapal
11.E.Muthaiyya
12.D.Easudhas
13.S.Balasubramanian
14.V.Subramanian
15.M.Premkumar
16.V.Iyyamperummal
17.M.Muthaiyya
18.A.Nambirajan
19.D.Saminathan
20.S.Alagusundharam
21.S.Vijayakumar
22.L.Madhu
23.M.Manikkam
24.C.Arumugam
25.G.Rayappan
26.A.Uikkattan
27.P.Paldurai
28.S.Subashkanna
29.P.Gopalaakrishnan
30.M.Jebashteen Samuvelraj
31.S.Jeyapal
32.V.Ganeshan
33.P.Murugan
34.E.Balasubramanian
35.A.Deniyal Abraham
26.P.Balasubramanian
37.S.Lakshmanaperummal
38.Sudaramani

... Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 1st respondent in C.P.S.No.11352/2010 to 11356/2010 and 13298/2010 to 13304/2010 and 13006/2010 to 13310/2010 and 13608/2010, 3728/2010 to 3736/2010, 3758/2010 to 3784/2010 and 11350/2010, 11351/2010 dated 23.04.2015 only with respect to the List I of the order and the labours who had been made as respondents 2 to 38 herein and quash the same.

For Petitioner : Mr.Porkodi Karnan

For R1 : Mr.K.Mu.Muthu
Additional Government Pleader

For R2, R3, R5 & R8 : Mr.Veerakathiravan,
Senior Counsel
for Mr.B.Karuppasamy

W.P. (MD) No.17084 of 2015

1.The Executive Engineer,
TWAD Board,
Maintenance Division,
Tirunelveli.

2.The Assistant Executive Engineer,
TWAD Board,
Maintenance Division,
Tirunelveli District, Sankarankoil

3.The Assistant Engineer,
TWAD Board,
Maintenance Division,
Tirunelveli District, Sankarankoil

... Petitioners

Vs

1.The Inspector of Labour,
Tirunelveli.

2.S.Selvendurai

3.Maruthapandian

4.M.Karthik Pandian

5.Joshap

6.K.Pponraj

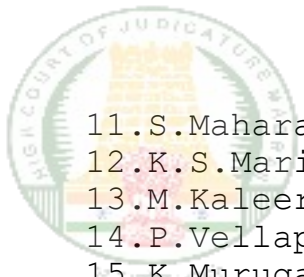
7.P.Mariappan

8.A.Ramaraj

<https://hcservices.ecourts.gov.in/hcservices/>

9.K.Padma

10.K.Sithar



- 11.S.Maharajan
- 12.K.S.Mariappan
- 13.M.Kaleeraj
- 14.P.Vellapandi
- 15.K.Murugan
- 16.K.Nheru
- 17.M.ChandraSekar
- 18.C.Muthusamy
- 19.M.Maadasamy
- 20.R.Udaiyar
- 21.K.Mahendran
- 22.G.Maniraj
- 23.L.Solarajan
- 24.E.Pillaiyar
- 25.P.Kariyamal
- 26.P.Alagirisamy
- 27.N.Ganeshan
- 28.R.Kaleechamy
- 29.S.Gandhi
- 30.P.Kanipandian
- 31.A.Wilson
- 32.V.Murugan
- 33.M.Sundharraj
- 34.M.Mariappan
- 35.S.Chokalingam
- 36.A.Mohamad Ekpai
- 37.V.Murugan
- 38.M.Balakrishnan
- 39.P.Muthupandi
- 40.M.Alageshan
- 41.L.Suresh
- 42.A.Chellapandian
- 43.P.Sendhurpandian
- 44.C.Muthupandian
- 45.K.Arumugakrishnan
- 46.R.Murugan
- 47.M.Raja
- 48.S.Palkarthik
- 49.K.Murugan
- 50.R.Pechikutti
- 51.A.Raju
- 52.E.Uchimakale
- 53.K.Santhanamari
- 54.Kompaiya
- 55.K.Ayyadurai
- 56.S.Muthukumar
- 57.A.Poolpandian
- 58.S.Esurajan
- 59.C.R.Kumar
- 60.I.Arasakani
- 61.S.RottaiSami
- 62.M.Sunilkumar



PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 1st respondent in C.P.S.No.3645/2010 to 3723/2010 and 13296/10, 13305/10, 3778/12 to 3780/12 dated 23.04.2015 only with respect to the List I of the order and the Labours who had been made as respondents 2 to 62 herein and quash the same.

For Petitioner : Mr.Porkodi Karnan

For R1 : Mr.K.Mu.Muthu
Additional Government Pleader

For R2, R3, R5 & R8 : Mr.Veerakathiravan,
Senior Counsel
for Mr.B.Karuppasamy

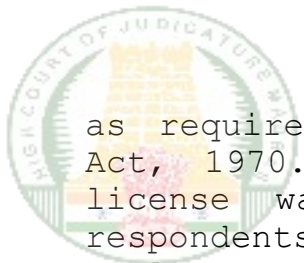
ORDER

TWAD Board is the petitioner in these writ petitions. The private respondents in these writ petitions filed petitions before the Inspector of Labour, Tirunelveli, seeking conferment of status of permanency. The first respondent took the petitions filed by the private respondents on file and issued notice to the writ petitioner management. The writ petitioner management filed its counter. After considering the contentions raised on either side, the first respondent passed orders on 23.04.2015 granting the status of permanency on the claimants. Challenging the aforesaid order passed by the first respondent, these three writ petitions have been filed.

2.Heard the learned standing counsel appearing for the writ petitioner and the learned Senior Counsel for the claimants / workmen.

3.The learned standing counsel reiterated the contentions set out in the affidavits filed in support of the writ petitions. In these writ petitions it has been contended that the TWAD cannot be brought within the purview of Tamil Nadu Act 46 of 1981. But then, this contention has to be rejected because the issue is no longer res integra. It was held as early as in the decision reported in 1993-1-L.W-283 in the case of Tamil Nadu Water Supply and Drainage Board, represented by Superintending Engineer, Santhi Nagar, Tirunelveli. vs. The Secretary, Kovilpatti Water supply scheme Maintenance Workers Union, 16-C, V.O.C.Nagar, Second Street, Kovilpatti and another that TWAD Board would fall within the purview of TamilNadu Act 46 of 1981.

4.This Court posed a specific question to the learned Standing Counsel as to whether the board had obtained the employer's license



as required under the Contract Labour (Regulation and Abolition) Act, 1970. It appears that during the relevant period no such license was obtained by the Board. Therefore, the private respondents herein will have to be construed only as the direct employees of the Board and not as contract labour.

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5.The next question that arises for consideration is as to whether the claimants had put in 480 days of service in 24 consecutive calendar months. The learned Standing Counsel asserted that no convincing material has been placed to establish the claim of the workmen. Again I am unable to agree with the said contention. The statutory authority namely the first respondent herein had perused the log book in which entries have been made by the workmen. It is relevant to note here that the engineers of TWAD have also counter signed in the said log book. If the said TWAD has challenged the genuineness of the log book, then it would be a different matter. The genuineness of the log book and the entries made therein have not been questioned.

6.This Court has to necessarily concur with the findings of the first respondent. This is essentially a question of fact. This Court sitting in writ jurisdiction would not be justified in interfering with such a finding. Such a finding has been rendered in favour of the claimants after taking into consideration all the relevant materials. Therefore, I do not find any reason to interfere with the orders impugned in these writ petitions, by which the status of permanency has been conferred on the claimants/private respondents.

7.The claimants claimed to have worked for 480 days within a period of 24 consecutive calendar months from 2003 to 2006. The petitions were filed only in the year 2010. The order itself was passed only on 23.04.2015. Therefore, even while sustaining the orders impugned in these writ petitions, this Court must necessarily hold that the claimants would be entitled for the consequential and monetary benefits from the date when the impugned orders were passed, ie., from 23.04.2015.

8.With this clarification, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-III)



To

The Inspector of Labour,
Tirunelveli.

- 1 CC TO Mr.PORKODI KARNAN , ADVOCATE IN SR No.98056.
- + 5 CCs TO Mr.B.KARUPPASAMY , ADVOCATE IN SR No.98151.
- +1 cc to Special Government Pleader, SR.No.98080.

PNN

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W.P.(MD)Nos.17082, 17083 and 17084 of 2015

and

M.P.(MD)Nos.1,1 and 1 of 2015

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