

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07-11-2019

Coram

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.18543, 18553, 18910, 20690, 21853, 27578, 27683, 28738,
28778 of 2011, 17133 of 2014 and 735 of 2017

T.Muthukumaran	..	Petitioner in WP 18543/2011
A.Anandan	..	Petitioner in WP 18553/2011
R.Suresh	..	Petitioner-1 in WP 18910/2011
A.Gunasekar	..	Petitioner-2 in WP 18910/2011
S.Manivannan	..	Petitioner-3 in WP 18910/2011
R.D.Murugan	..	Petitioner-1 in WP 20690/2011
M.Sivakumar	..	Petitioner-2 in WP 20690/2011
A.Karthikeyan	..	Petitioner-3 in WP 20690/2011
A.Ravi	..	Petitioner in WP 21853/2011
D.Rajasekar	..	Petitioner-1 in WP 27578/2011
D.Chandramohan	..	Petitioner-2 in WP 27578/2011
R.Govindaraj	..	Petitioner in WP 27683/2011
T.Kumar	..	Petitioner-1 in WP 28738/2011
T.Anbalagan	..	Petitioner-2 in WP 28738/2011
V.Ramesh	..	Petitioner-3 in WP 28738/2011
C.A.Udayakumar	..	Petitioner-4 in WP 28738/2011
V.Senthilkumar	..	Petitioner-5 in WP 28738/2011
K.Selvavinayagam	..	Petitioner-6 in WP 28738/2011
M.Karthikeyan	..	Petitioner-7 in WP 28738/2011
S.Balasubramanian	..	Petitioner-8 in WP 28738/2011
T.Dhakshinamurthy	..	Petitioner in WP 28778/2011
R.Jayabal	..	Petitioner in WP 17133/2014
K.Jayamurthy	..	Petitioner-1 in WP 735/2017
M.Sugumaran	..	Petitioner-2 in WP 735/2017

vs.

1.The Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
Represented by The Chairman,
No.144, Anna Salai,
Chennai-2.

2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai-2.

3.The Superintending Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
Cuddalore.

4.The Inspector of Labour,
Cuddalore.

.. Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writs of Mandamus, directing the respondents 1 to 3 to implement the orders of the fourth respondent made in E/6532/06, E/1015/06, E/5529/05, E/1015/06, E/5529/06, E/2535/05, E/5529/05, E/5176/05, E/6532/06, E/5529/05 and E/6532/06 respectively dated 28.06.2007, 28.06.2007, 20.04.2007, 28.06.2007, 20.04.2007, 20.04.2007, 20.04.2007, 15.06.2007, 28.06.2007, 20.04.2007 and 28.06.2007 under the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 and thereby direct the respondents 1 to 3 to absorb the petitioner in the first respondent-Corporation as permanent employee.

For Petitioner in all WPs : Mr.N.Suresh

For Respondents-1 to 3
in all WPs : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co.

For Respondent-4 in all
WPs : Mr.J.Ramesh,
Additional Government Pleader.

C O M M O N O R D E R

The relief sought for in all these writ petitions are for a direction to direct the respondent-Tamil Nadu Electricity Board to implement the order passed by the Inspector of Labour, Cuddalore under the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 and direct the respondents 1 to 3 to absorb the petitioners in the respondent-Tamil Nadu Electricity Board as permanent employees.

2. The writ petitioners claim that they were engaged as contract labourers on daily wage basis and they have served more than 480 days of service and accordingly, they have filed a petition before the Inspector of Labour, Cuddalore under the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

3. The Inspector of Labour, Cuddalore, allowed their claim and the appeal filed by the respondent-Tamil Nadu Electricity Board was also dismissed, against which SLP was filed and the same was also dismissed by the Hon'ble Supreme Court of India. The review filed was also rejected. Therefore, the order reached the finality and under these circumstances, the writ petitioners are constrained to move the present writ petitions, seeking a direction to implement the orders passed by the Inspector of Labour, Cuddalore.

4. The learned counsel, appearing on behalf of the respondent-Tamil Nadu Electricity Board, disputed the contentions by stating that the writ petitioners were engaged as contract labourers by the private contractors and the Tamil Nadu Electricity Board entered into an agreement with these private contractors. Therefore, the writ petitioners were not directly engaged by the respondent-Tamil Nadu Electricity Board as contract labourers.

5. The contract labourers filed a petition under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, which was allowed by the Inspector of Labour, Cuddalore. As far as the orders passed by the Inspector of Labour, Cuddalore are concerned, the respondent-Electricity Board subsequently identified that some of the orders were bogus and accordingly, registered the complaints and those criminal complaints are also pending before the Competent Criminal Court of Law. However, the criminal proceedings had not reached the finality.

6. The learned counsel for the respondent-Tamil Nadu Electricity Board reiterated by stating that the Hon'ble Supreme Court of India dismissed the Special Leave Petition, without adjudicating the merits and the demerits of the issues. The Hon'ble Supreme Court of India confirmed the order. However, it was made clear that dismissal of the Special Leave Petition would not affect the criminal proceedings that are stated to be pending. Thus, the Hon'ble Supreme Court made it clear that the order confirmed would not affect the criminal proceedings, which all are stated to be pending.

7. This Court is of the considered opinion that, it is an admitted fact that, these contract labourers were engaged by the private contractors with whom the respondent-Tamil Nadu Electricity Board entered into an agreement for the purpose of execution of the works as identified by the competent authorities of the respondent-Tamil Nadu Electricity Board. The Competent Authorities have not issued any appointment order nor recruit these contract labourers directly.

8. Under these circumstances, various disputes were raised. The main contention raised by the learned counsel for the respondent-Tamil Nadu Electricity Board is that these writ petitions cannot be entertained as an execution petition or for a direction to implement the orders of the Inspector of Labour, Cuddalore passed under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

9. When it is an admitted fact that the order passed by the Inspector of Labour, Cuddalore was confirmed by the Hon'ble Apex Court, then another fresh writ petition, seeking direction to implement the order, cannot be entertained under Article 226 of the Constitution of India. Thus, it is left open to the writ petitioners to work out their remedy in the manner known to law. Contrarily, there cannot be a fresh writ petition under Article 226 of the Constitution of India for re-adjudication of the orders, which were confirmed by the Hon'ble Apex Court.

10. This being the settled principles, this Court is of the considered opinion that the writ petitioners are at liberty to approach the competent authorities for their redressal and as far as the relief sought for in these writ petitions to implement the order of the Inspector of Labour, Cuddalore, more specifically, during the pendency of the criminal case or otherwise cannot be granted.

11. In this view of the matter, the writ petitions stand disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy//

सत्यमेव जयते Sub Assistant Registrar

Svn

To

1.The Chairman,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai-2.

WEB COPY

2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai-2.

3.The Superintending Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
Cuddalore.

4.The Inspector of Labour,
Cuddalore.

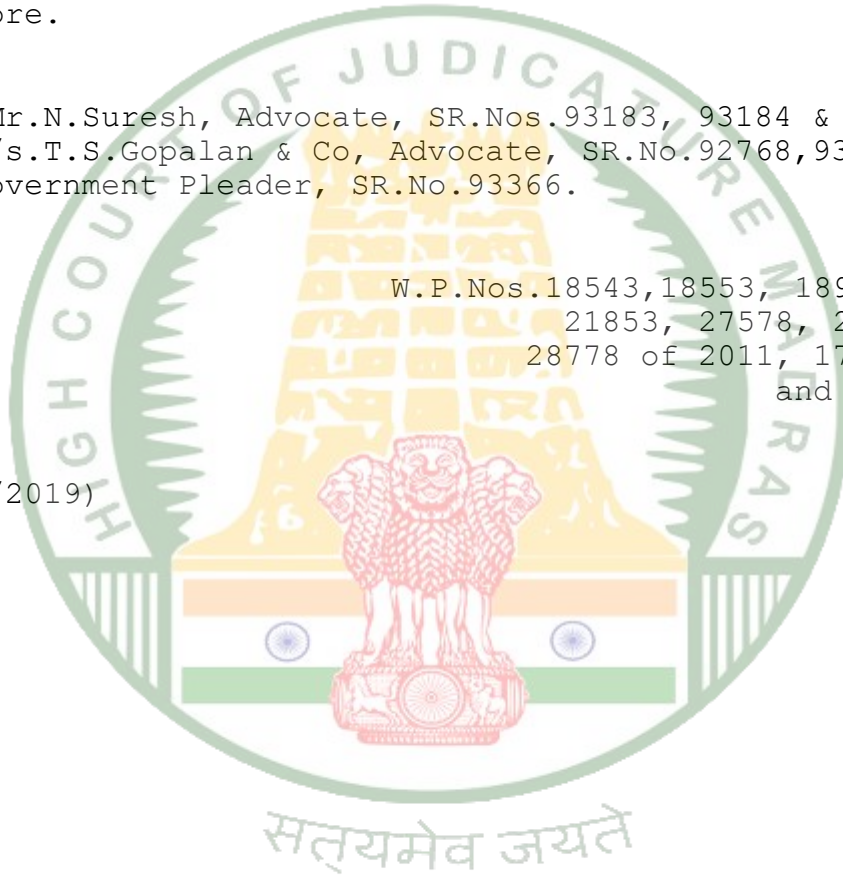
+13cc to Mr.N.Suresh, Advocate, SR.Nos.93183, 93184 & 93186.

+3cc to M/s.T.S.Gopalan & Co, Advocate, SR.No.92768,93291&92777.

+1cc to Government Pleader, SR.No.93366.

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VD (CO)
CSR(12/12/2019)



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