

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20019 of 2011

1. R. Ravikumar
2. B. Parivallal
3. G. Jayakumar

...Petitioners

vs

1. The Tamilnadu Electricity Generation & Distribution Corporation Ltd.,
Represented by the Chairman,
No.144, Annasalai,
Chennai-2.

2. The Chief Engineer (Personnel)
Tamilnadu Electricity Generation & Distribution Corporation Ltd.,
No. 144, Annasalai,
Chennai-2.

3. The Superintending Engineer,
Tamilnadu Electricity Generation & Distribution Corporation Ltd.,
Cuddalore.

4. The Inspector of Labour,
Cuddalore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus or any other order or direction in the nature of appropriate writ directing the respondents 1 to 3 to implement the order of the 4th respondent made in E/6532/06 dated 28.06.2007 under the provisions of the Tamilnadu Industrial Establishments (Conferment of permanent status to workmen) Act, 1981 and thereby direct the respondents 1 to 3 to absorb the petitioners in the first respondent Corporation as permanent employees.

For Petitioners : Mr. N. Suresh

For Respondents : Mr. Anand Gopalan
for M/s.T.S.Gopalan & Co.
Mr.J.Ramesh, AGP for R4

O R D E R

The relief sought for in this writ petition is 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 this writ petition 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 this writ petition 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 petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrn
To

1. The Tamilnadu Electricity Generation & Distribution Corporation Ltd.,
Represented by the Chairman,
No.144, Annasalai,
Chennai-2.

2. The Chief Engineer (Personnel)
Tamilnadu Electricity Generation & Distribution Corporation Ltd.,
No. 144, Annasalai,
Chennai-2.

3. The Superintending Engineer,
Tamilnadu Electricity Generation & Distribution Corporation Ltd.,
Cuddalore.

4. The Inspector of Labour,
Cuddalore.

+1cc to Mrs.T.S.Gopalan & Co., Advocate Sr.96370
+1cc to Mr.N.Suresh, Advocate Sr.96906
+1cc to the Government Pleader Sr.97595

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