

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

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

W.P.No.20547 of 2005

and

W.P.M.P.No.22443 of 2005

M/s.Teems Engineering Construction,
Rep.by its Partner G.R.Ravi
R 2/4, Kaveri Street,
Kalashetra Colony, Besant Nagar,
Chennai - 90

..Petitioner

Vs.

The Superintending Engineer,
Tamil Nadu Electricity Board,
General Construction Circle,
Basin Bridge, P.G.Complex,
Chennai.

..Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent in Lr.No.SE/GCC/CNI/Tech/AE/F.Gen./D.845/05, dated 04.06.2005 and quash the same.

For Petitioner : Mr.C.Kasirajan

For Respondent : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

O R D E R

The order dated 04.06.2005 passed by the respondent regarding the Recovery of the Compensation amount awarded by the Deputy Commissioner of Labour under the provisions of the Workmen's Compensation Act, 1923 is under challenge in the present writ petition.

2. The petitioner is a Registered Firm, carrying on their business activity with the Tamil Nadu Electricity Board for several years. The employee of the writ petitioner contractor met with an accident and the victim filed an application under the provisions of the Workmen's Compensation Act. The Deputy Commissioner of Labour awarded the compensation amount for a sum

of Rs.2,65,644/- (Rupees Two Lakh Sixty Five Thousand Six Hundred and Forty Four only)

3. The learned counsel appearing on behalf of the respondent Tamil Nadu Electricity Board made a submission that the findings of the Award categorically states that the Contract labourer was employed by the writ petitioner Contractor Firm and he was performing the duties allotted by the Tamil Nadu Electricity Board authorities. The said fact was not disputed and established before the authority under the Workmen's Compensation Act, 1923.

4. The learned counsel for the petitioner states that at the time of accident, the Contract labourer was not working as per the directions of the writ petitioner Contractor and therefore, the Contractor is not liable. Such a contention cannot be accepted as many number of contract labourers are engaged by the Electricity Board through the Private Contractors. The works are sometimes allotted by the officials of the Electricity Board and sometimes, as per the instructions of the Contractors themselves. However, the fact remains that the Contract labourer was an employee of the Private Contractor and that fact was not disputed.

5. The learned counsel for the respondent reiterated by stating that as per Section 12(2) of the Workmen's Compensation Act 1923, which states as follows:

"12. (1).....

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, [or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation,] and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner."

6. In view of the above provision, the respondent is entitled to recover the compensation amount from the Contractor. Thus, there is no infirmity in respect of the Award passed by the Deputy Commissioner of Labour under the provisions of the Workmen's Compensation Act.

7. In the present case, as per the Award, the Principal employer has to settle the compensation amount to the Contract labourer and subsequently, recover the same from the Contractor by virtue of Section 12(2) of the Workmen's Compensation Act, 1923.

8. This being the facts and circumstances of the case, this Court is of an opinion that there is no infirmity or perversity in respect of the Award of compensation by the Deputy Commissioner of Labour under the provision of the Workmen's Compensation Act.

9. The learned counsel for the petitioner states that the compensation amount has already been recovered from the Contractor. The submission in this regard shall be verified by the authorities and if it is recovered, no further recovery is to be effected and if the amount is not recovered, then the respondent authorities are empowered to recover the same in accordance with the Award passed by the Deputy Commissioner of Labour.

10. Accordingly, the order passed by the Tamil Nadu Electricity Board is in consonance with the Award passed by the competent authority under the Workmen's Compensation Act. Thus, there is no infirmity in respect of the Award as well as the consequential order passed by the respondent Electricity Board and the order dated 04.06.2005 in Lr.No.SE/GCC/CNI/Tech/AE/F.Gen./D.845/05 is confirmed and the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar(CS IV)

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Sub Assistant Registrar

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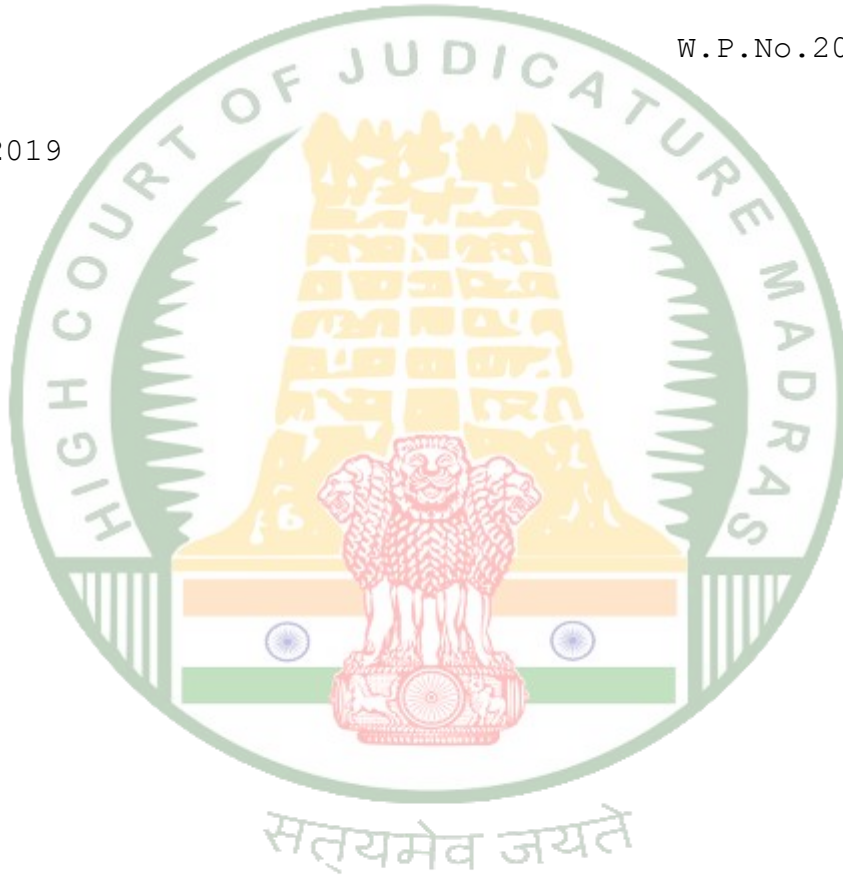
To

The Superintending Engineer,
Tamil Nadu Electricity Board,
General Construction Circle,
Basin Bridge, P.G.Complex,
Chennai.

+lcc to Mr.C.Kasirajan, Advocate sr.86803
+lcc to M/s.T.S.Gopalan & Co, Advocate sr.86817

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