

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.11.2019

CORAM

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

W.P.NOS.29730 TO 29745 OF 2015

- 1 M.MURUGAN
S/O.MUNIAPPAN CONTRACT LABOUR MARANDAHALLI
POST PALACODE TALUK DHARMAPURI DISTRICT.
... PETITIONER in WP No.29730 of 2015
- 1 C.MANICKAM
S/O.CHINNATHAMBI CONTRACT LABOUR NO.1/78
VARATHAPURAM SHOOLAGIRI POST HOSUR TALUK
KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29731 of 2015
- 1 K.PERIAMUNIAPPAN
S/O.KANGAPPA CONTRACT LABOUR NO.2/231-A
BEERAPALAYAM SHOOLAGIRI POST HOSUR TALUK
KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29732 of 2015
- 1 L.CHINNAGOPAL
S/O.LATCHUMAPPA CONTRACT LABOUR GUNDU
KURUKI VILLAGE KONERIPALLI POST HOSUR
TALUK KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29733 of 2015
- 1 T.SAKKAPPA
S/O.THIMMARAYAPPA. CONTRACT LABOUR
BEEREPALAYAM SOOLAGIRI POST HOSUR TALUK
KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29734 of 2015
- 1 B.VENUGOPAL
S/O.BALAKONDAN CONTRACT LABOUR NO.2/193-B
BEERAPALAYAM SOOLAGIRI POST HOSUR TALUK
KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29735 of 2015

- 1 N.KARUNANITHI
S/O.NADARAJAN CONTRACT LABOUR ANUMAN
THEERTHAM POST UTHANGARAI TALUK
KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29736 of 2015
- 1 B.RAMESH
S/O.BASAPPA CONTRACT LABOUR GUNDU KURUKKI
VILLAGE KONERIPALLI POST HOSUR TALUK
KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29737 of 2015
- 1 M.ARUMUGAM
S/O.MUTHAN CONTRACT LABOUR PALAYAM
GUDALUR POST HARUR TALUK
DHARMAPURI DISTRICT.
... PETITIONER in WP No.29738 of 2015
- 1 P.CHANDRAPPA
S/O.PILLAPPA CONTRACT LABOUR NO.2/475 B
GUNDU KURUKKI KONERIPALLI POST HOSUR TALUK
KRISHNAGIRI DISTRICT.
... PETITIONER in WP No.29739 of 2015
- 1 M.GURRAPPA
S/O.MUNIAPPA CONTRACT LABOUR NO.2/432
GUNDU KURUKKI KONERIPALLI POST HOSUR TALUK
KRISHNAGIRI DISTRICT
... PETITIONER in WP No.29740 of 2015
- 1 T.DEVENDRAN
S/O.THEERTHAGIRI CONTRACT LABOUR NO.2/1091-
22 DESINGU NAGAR MOOKANDALLI HOSUR TALUK
KRISHNAGIRI DISTRICT
... PETITIONER in WP No.29741 of 2015
- 1 K.N.MOHAN
S/O.NAGARAJ ACHARI CONTRACT LABOUR
MARANDAHALLI II PALACODE TALUK DHARMAPURI
DISTRICT
... PETITIONER in WP No.29742 of 2015

1 P.KUMAR
S/O.PERIYASAMY CONTRACT LABOUR CHINNAPANE
THOTTAM PANETHOTTAM POST POCHAMPALLI TALUK
KRISHNAGIRI DISTRICT
... PETITIONER in WP No.29743 of 2015

1 A.THIRUGANAM
S/O.ALLIMUTHU CONTRACT LABOUR PALAYAM
VILLAGE GUDDALORE POST HARUR TALUK
DHARMAPURI DISTRICT
... PETITIONER in WP No.29744 of 2015

1 M.MADESHWARAN
S/O.MADHAIYAN, CONTRACT LABOUR, MOOLAKADU
D.THRINJIPATTI POST, DHARMAPURI DISTRICT
... PETITIONER in WP No.29745 of 2015

VS

1. The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation,
(TANGEDCO),
Dharmapuri- 5.
2. The Presiding Officer,
Labour Court,
Salem.
3. The Assistant Engineer (O&M),
Tamil Nadu Generation & Distribution Corporation,
(TANGEDCO), Rural Section, Karimangalam.
4. The Assistant Executive Engineer (O&M),
Tamil Nadu Generation & Distribution Corporation,
(TANGEDCO), Rural, Karimangalam.
5. The Executive Engineer, (O&M)
Tamil Nadu Generation & Distribution Corporation,
(TANGEDCO), Palacode.

.. Respondents in All WPs.

Prayer in W.P.Nos.29730 to 29745 of 2015:-

Writ Petitions filed under Article 226 of the Constitution of India praying to issue appropriate writs of Certiorarified Mandamus calling for the records relating to the order in I.D.No.13, 14, 15, 16, 17, 18, 28, 40, 78, 99, 100, 149, 150, 152, 154 and 158 of 2009 respectively on the file of the 2nd respondent dated 27.03.2014 and quash the same insofar as the petitioner are concerned and direct the first respondent to absorb the petitioner in the suitable employment by applying Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 and pass orders.

For Petitioners in all Wps. : Mr.S.Doraisamy
For Respondents in all WPs. : Mr.Fakkir Mohideen
for RR1, 3 to 5
For R2- Labour Court

COMMON ORDER

The award passed by the Labour Court dated 27.03.2014 against the petitioners are under challenge in these present writ petitions.

2. The petitioner in W.P.No.29730 of 2015 claim that he was working as daily wage employee in the office of Tamil Nadu Generation & Distribution Corporation from 13.05.1991 up to 21.07.1998. The petitioner state that without following the due procedures enumerated under the Industrial Disputes Act, 1947, he was terminated from service on 21.07.1998 and thereafter, no work was allotted to him despite their repeated demands. The petitioner had raised the Industrial Dispute before the Labour Officer under Section 2(A) of the Act. Upon conciliation, the industrial dispute ended in failure and based on the failure report, he had filed an application under Section 2(A) (2) of the Industrial Dispute Act before the Labour Court, Salem. The Labour Court dismissed the Industrial Dispute on the ground that the dispute is not maintainable as the writ petitioner had not established any legal right that they are workmen within the definition of 2(A) (2) of the Industrial Dispute Act and engaged by the Tamil Nadu Generation & Distribution Corporation for 240 days continuously. Challenging the said award, the present writ petition is filed.

3. The petitioner state that he was employed as daily wage employees in the respondent Corporation and further, he was terminated from service. Even in the affidavit filed in support of the writ petition, the writ petitioner had not established any fact with reference to the documents or files, so as to

prove that he was appointed or engaged as workmen under the Tamil Nadu Generation & Distribution Corporation

4. The findings of the Labour Court, categorically enumerates that the writ petitioner had established neither the date of appointment nor the date of termination. To establish such factors, the writ petitioners has not filed any document before the Labour Court, contrarily, he had made a blank statement he was working as workmen in the Tamil Nadu Generation & Distribution Corporation and they was terminated from service. Such a blank statement cannot be construed as a legal right so as to grant relief under the provisions of the Industrial Dispute Act. The Labour Court further stated that they have not established any proof for having served in the Tamil Nadu Generation & Distribution Corporation for 240 days in the previous year. He has not filed any salary register or salary slip or any other document to establish that he was employed in the Tamil Nadu Generation & Distribution Corporation and has been working for a particular period under the establishment of the Tamil Nadu Generation & Distribution Corporation. In view of the fact that the writ petitioner had not filed any document to establish a prima facie case before the Labour Court, the Labour Court arrived at a conclusion that the writ petitioner had not even established that he is a workmen within the definition of 2(A) (2) of the Industrial Dispute Act. Therefore, the industrial dispute raised by the petitioner cannot be entertained at all. The categorical findings of the Labour Court reveals that excepting the blank statements, the writ petitioner has not established any of their contentions to grant the relief under the provisions of the Industrial Dispute Act.

5. This being the factum of the case, the writ petitioners have not produced any document or proof with regard to the orders or proceedings issued by the Tamil Nadu Generation & Distribution Corporation. In the absence of such documents, this Court cannot interfere with the findings of the Labour Court. There is no irregularity or infirmity in the findings of the Labour Court in the awards dated 27.03.2014.

6. Accordingly, the awards passed by the Labour Court dated 27.03.2014 is confirmed and consequently, the writ petitions stand dismissed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mrn

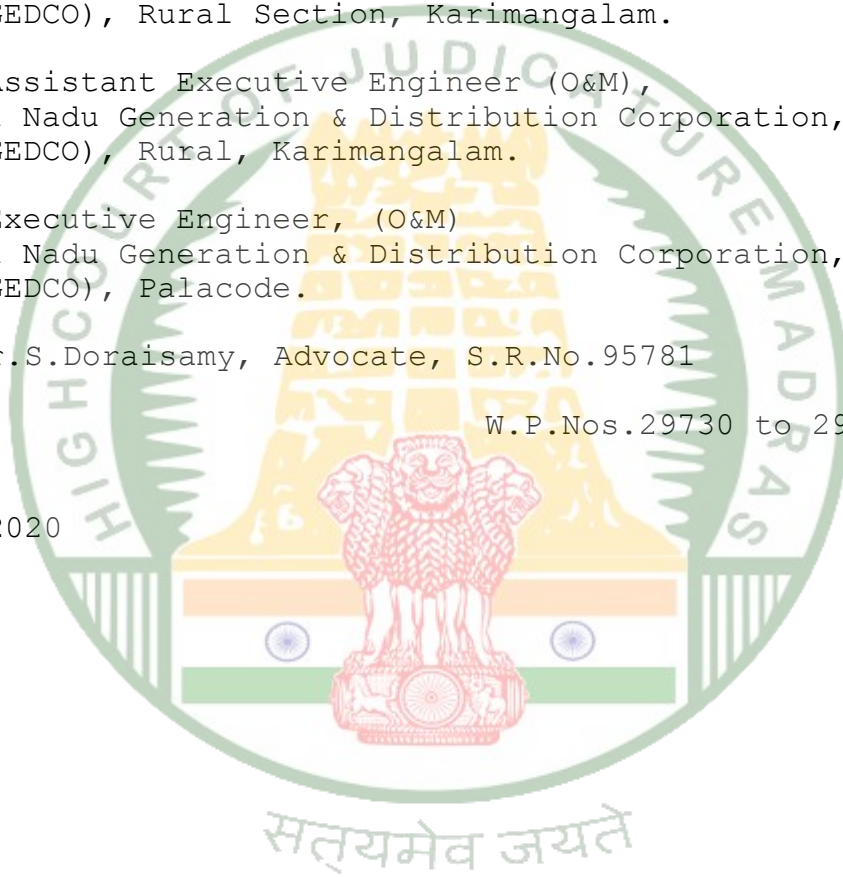
To

1. The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation,
(TANGEDCO), Dharmapuri- 5.
2. The Presiding Officer,
Labour Court, Salem.
3. The Assistant Engineer (O&M),
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Tamil Nadu Generation & Distribution Corporation,
(TANGEDCO), Rural, Karimangalam.
5. The Executive Engineer, (O&M)
Tamil Nadu Generation & Distribution Corporation,
(TANGEDCO), Palacode.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.95781

W.P.Nos.29730 to 29745 of 2015

SV(CO)
CS/30/01/2020



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