

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.27502 to 27512 of 2019
and W.M.P.Nos.23692 to 23701 of 2019

B.Ravichandran	...	Petitioner in W.P.No.27502 of 2019
V.Munikrishnappa	...	Petitioner in W.P.No.27503 of 2019
R.Ramasamy	...	Petitioner in W.P.No.27504 of 2019
N.Muniyappa	...	Petitioner in W.P.No.27505 of 2019
S.Mahadevan	...	Petitioner in W.P.No.27506 of 2019
Y.Selvaraj	...	Petitioner in W.P.No.27507 of 2019
V.Murugesan	...	Petitioner in W.P.No.27508 of 2019
T.Paramesh	...	Petitioner in W.P.No.27509 of 2019
N.Babu	...	Petitioner in W.P.No.27510 of 2019
G.Dharmaraj	...	Petitioner in W.P.No.27511 of 2019
M.Kubendran	...	Petitioner in W.P.No.27512 of 2019

vs.

1. The Presiding Officer
Labour Court,
Salem.
 2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Dharmapuri Electricity Distribution Circle,
Dharmapuri.
 3. The Executive Engineer,
Operation & Maintenance
Tamil Nadu Electricity Board,
Krishnagiri.
 4. Assistant Executive Engineer,
Construction Division,
Tamil Nadu Electricity Board,
Krishnagiri.
 5. Assistant Electrical Engineer,
Operation & Maintenance,
Tamil Nadu Electricity Board,
Kuttikavundalur,
Krishnagiri District.
- ... Respondents in all WPs

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the award passed by the first respondent in respect of I.D.No.52 to 57, 59, 61,63,64/09 and 217/09 respectively dated 27.03.2014 and to quash the same, consequently direct respondents 2 to 5 to reinstate the petitioner in service with backwages.

For Petitioner : M/s.C.Prabakaran
in all W.Ps

For Respondents : R1-Labour Court
in all W.Ps Mr.M.Fakkir Mohideen
for RR2 to 5.

C O M M O N O R D E R

The awards of the Labour Court dated 27.03.2014 passed in I.D.Nos.52 to 57, 59, 61, 63, 64, 217 of 2009 are under challenge in these present writ petitions.

2. The petitioners claim that they are working as daily wage employees in the office of the Tamil Nadu Electricity Board from 06.02.1992. The petitioners' state that without following the due procedures enumerated under the Industrial Disputes Act, 1947, they were terminated from service orally on 01.04.2008 and thereafter, no work was allotted to them despite their repeated demands. The petitioners have 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, they have 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 petitioners have 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 Electricity Board for 240 days continuously. Challenging the said award, the present writ petitions are filed.

3. The petitioners state that they were employed as daily wage employees in the respondent board and further, they were orally terminated from service. Even in the affidavit filed in support of the writ petition, the writ petitioners have not established any fact with reference to the documents or files, so as to prove that they were appointed or engaged as workmen under the Tamil Nadu Electricity Board.

4. The findings of the Labour Court, more specifically paragraph No.12, categorically enumerates that the writ petitioners have established neither the date of appointment nor the date of termination. To establish such factors, the writ petitioners have not filed any document before the Labour Court, contrarily, they have made a blank statement that they were working as workmen in the Tamil Nadu Electricity Board and they were orally 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 TNEB for 240 days in the previous year. They have not filed any salary register or salary slip or any other document to establish that they have been employed in the electricity board and they have been working for a particular period under the establishment of the Tamil Nadu Electricity Board. In view of the fact that the writ petitioners 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 petitioners have not even established that they are the workmen within the definition of 2(A) (2) of the Industrial Dispute Act. Therefore, the industrial dispute raised by the petitioners cannot be entertained at all. The categorical findings of the Labour Court in paragraph No.12 reveals that excepting the blank statements, the writ petitioners have 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 electricity board. 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 I.D.Nos.52 to 57, 59, 61, 63, 64, 217 of 2009 dated 27.03.2014.

6. Accordingly, the awards passed by the Labour Court in I.D.Nos.52, to 57, 59, 61, 63, 64, 217 of 2009 dated 27.03.2014 is confirmed and consequently, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Presiding Officer
Labour Court,
Salem.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Dharmapuri Electricity Distribution Circle,
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5. The Assistant Electrical Engineer,
Operation & Maintenance,
Tamil Nadu Electricity Board,
Kuttikavundalur,
Krishnagiri District.

+1cc to Mr.M.Fakkir Mohideen, Advocate Sr.79033
+1cc to Mr.C.Prabakaran, Advocate Sr.78836

W.P.Nos.27502 to 27512 of 2016
W.M.P.Nos.23692 to 23701 of 2016

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