

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.06.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.24650 of 2018

R.Ramesh

..Petitioner

vs.

1.The Chief Engineer Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai - 600 002.

2.The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Vellore Electricity Distribution Circle,
Gandhi Nagar, Vellore District.

..Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus, directing the respondents to implement the order dated 14.09.2017 made in Na.Ka.No.E/4253/2016 passed by Inspector of Labour, Vellore.

For Petitioner ... Mr.K.Sasindran

For Respondents .. Mr.Anand Gopalan
for M/s.T.S.Gopalan & Company

ORDER

The writ petition has been filed seeking a mandamus to direct the respondents to implement the order dated 14.09.2017 made in Na.Ka.No.E/4253/2016 passed by the Inspector of Labour, Vellore.

2.The petitioner has been working as Contract Labourer in the respondent Board. It is the case of the petitioner that though the Contract Labourers have been working in the respondent Board for a long period, their services were not regularised. Hence several cases have been filed before the Inspector of Labour and ultimately the Inspector of Labour, Vellore, passed an order dated 14.09.2017, directing the first

respondent to regularise the services of the workmen, who have completed 480 working days in 24 calendar months. It is the grievance of the petitioner that he has also obtained orders from the Inspector of Labour, however, the same has not been implemented by the respondent Board. Hence, the petitioner is before this Court with this writ petition.

3. Challenging the order passed by the Inspector of Labour, directing the Superintending Engineer/TANGEDCO, Vellore District, to absorb the Labourers, who have completed 480 days of service in the Board, as permanent employees in terms of Section 3(1) of the Tamil Nadu Shops and Establishment (Conferment of Permanent Status to Workmen) Act, earlier the Superintending Engineer, Tamil Nadu Generation and Distribution Corporation Ltd., has filed W.P.No.30603 of 2018 before this Court. The writ petition came to be disposed of by this Court vide order dated 01.02.2019, directing the labourers to submit fresh representations with necessary documents establishing their engagement as contract labourer, to the authority concerned/TANGEDCO and the Board was directed to consider the same in the light of the Board Proceedings in B.P.No.9, dated 09.01.2008 and pass orders. The aforesaid order is applicable to the present case in all aspects. The order passed in the said writ petition is reproduced hereunder for the sake of clarity:

"This writ petition has been filed by the petitioner/TANGEDCO challenging the order passed by the first respondent/the Inspector of Labour, Vellore, dated 14.09.2017 in proceedings Nos.Na.Ka.No.E/4252/2016, Na.Ka.No.E/4253/2016, Na.Ka.No.E/4254/2016, Na.Ka.No.E/4255/2016, Na.Ka.No.E/4256/2016, Na.Ka.No.E/4257/2016, Na.Ka.No.E/29/2017, and Na.Ka.No.E/30/2017.

2. By consent of both sides, the Writ petition is taken up for final disposal.

3. The main issue in this writ petition is that the Inspector of Labour ought not to have countenanced the claim of contesting respondents/Labourers since the Vellore Electricity Distribution Circle would not fall under the scope of Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act.

4. The Inspector of Labour, Vellore, i.e. the first respondent, by order dated 14.09.2017, directed the Superintending Engineer/TANGEDCO, Vellore

District, to absorb the Labourers as permanent employees in terms of Section 3(1) of the Tamil Nadu Shops and Establishment (Conferment of Permanent Status to Workmen) Act, as they completed 480 days of service in the Board.

5. The learned counsel for the petitioner produced the order copy passed in W.P.Nos.358 of 2018 etc. dated 24.04.2018 and W.P. Nos. 13172 to 13176 of 2012 etc. batch, dated 29.06.2018, wherein, this court held that "since the respondents/TNEB are not having any objection for considering the case of the Writ Petitioner/Workmen in the light of the terms and conditions as stipulated in B.P.No.9 dated 09.01.2008, the Writ Petitioners/Workmen are permitted to submit fresh representations to the respondents/TNEB with necessary documents, establishing their engagement as contract labourer and further directed the respondents/TNEB to consider the same, in the light of the Board Proceedings issued dated 09.01.2008. This Court further pointed out that the order passed by the Inspector of Labour, granting permanent status, cannot be insisted upon and in the event of considering the case of the writ Petitioners/workmen in the light of B.P.No.9 dated 09.01.2008, the orders passed by the Inspector of Labour need not be given effect to.

6. The learned counsel for the respondents/workmen would submit that liberty may be given to Respondents 2 to 9 / workmen to raise all the claim before the authority concerned as per the Board Proceedings in B.P.No.9 dated 09.01.2008. Further the learned counsel for the Respondents submits that the Respondents 2 to 9 had already approached the Inspector of Labour, Vellore, and claim Petition is pending for consideration. Therefore, he request this court to give direction to the appropriate authority to consider the claim in the specified time.

7. In view of the submissions made by both parties and by consent of both sides counsel, this court in the light of the orders passed by this Court in W.P.No.13172

of 2012 etc., dated 29.06.2018, is inclined to pass the following order:-

"The Respondents 2 to 9 are permitted to submit fresh representations to the authority concerned/TANGEDCO, within a period of three weeks from the date of receipt of a copy of this order, along with necessary documents establishing their engagement as contract labourer. In the event of receiving any such representation from the workmen, the Management/TANGEDCO, is directed to consider the same, in the light of the Board proceedings in B.P.No.9 dated 09.01.2008, and pass orders on merits and in accordance with law, as early as possible, preferably within twelve weeks thereafter. Further, in view of the submissions made by the learned counsel appearing for both sides, the order passed by the Inspector of Labour, granting permanent status cannot be insisted upon and in the event of considering the case of the petitioners in the light of the Board Proceedings dated 09.01.2008, the impugned orders passed by the Inspector of Labour need not be given effect to."

4. Thus, by following the above said order passed by this Court earlier, this Writ Petition stands disposed of as under:

The petitioner is directed to submit fresh representation to the authority concerned/TANGEDCO, within a period of three weeks from the date of receipt of a copy of this order, along with necessary documents establishing his engagement as contract labourer. In the event of receiving any such representation from the petitioner/workman, the Management/TANGEDCO, is directed to consider the same in the light of the Board proceedings in B.P.No.9, dated 09.01.2008, and pass orders on merits and in accordance with law, as early as possible, preferably within a period of twelve weeks thereafter. Till such time, it is directed that the order passed by the Inspector of Labour, dated 14.09.2017, granting permanent status cannot be insisted upon. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Engineer Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai - 600 002.

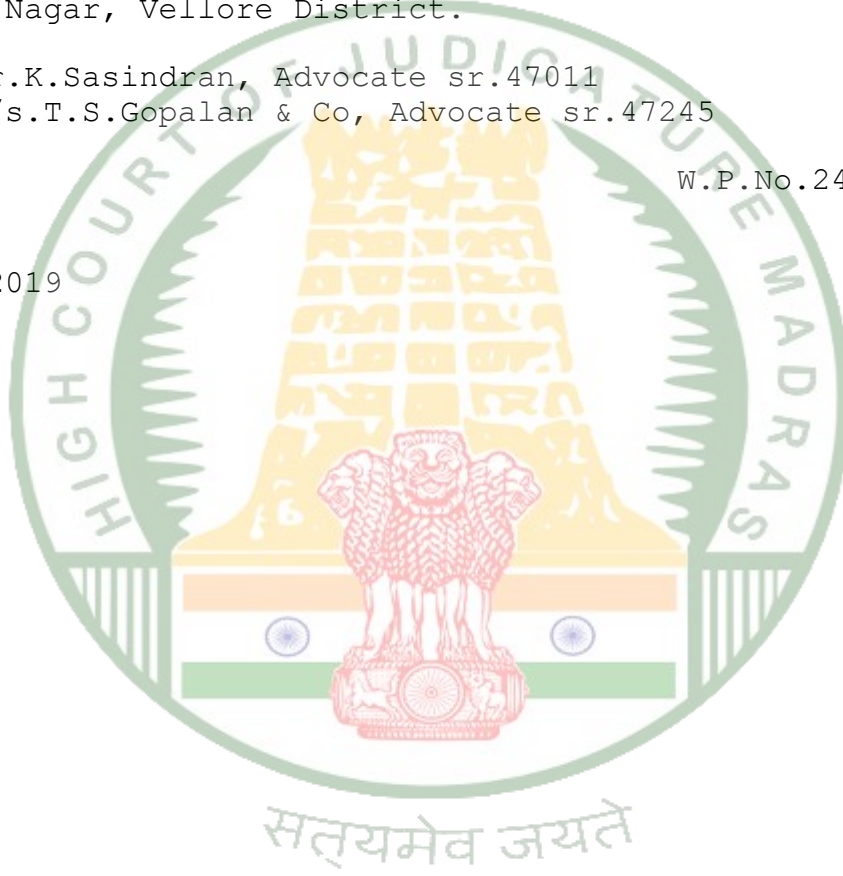
2.The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Vellore Electricity Distribution Circle,
Gandhi Nagar, Vellore District.

+1cc to Mr.K.Sasindran, Advocate sr.47011

+1cc to M/s.T.S.Gopalan & Co, Advocate sr.47245

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ssd(co)
nr 16/07/2019



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