

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.29541 of 2018
and W.P.No.193 of 2019
and WMP.No.202 of 2019 (in W.P.193/019)

W.P.No.29541 of 2018:-
P.Sathishkumar

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

W.P.No.193 of 2019:-

1.The Superintending Engineer
Tamil Nadu Generation and Distribution Corporation
Vellore Electricity Distribution Circle
Gandhi Nagar, Vellore ..Petitioner

Vs

1.The Inspector of Labour
Vellore

2.M.Venkatesan
3.S.Venkatesan
4.S.Yuvaraj
5.D.Venkatesan
6.G.Dinesh
7.K.Saravanan
8.B.Gangadharan
9.P.Sathish Kumar
10.S.Sudhakar

..Respondents in WP.193/2019

Prayer in W.P.No.29541 of 2018:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Mandamus directing the respondents to implement the order dated 26.09.2017 made in Na.Ka.No.E/3499/2016 passed by Inspector of Labour, Vellore.

Prayer in W.P.No.193 of 2019:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Certiorari calling for the records of the 1st respondent dated 26.09.2017 in Proceedings Na.Ka.No.E/3489/2016, Na.Ka.No.E/3490/2016, Na.Ka.No.E/3493/2016, Na.Ka.No.E/3494/2016, Na.Ka.No./3495/2016, Na.Ka.No.E/3496/2016, Na.Ka.No.E/3498/2016, Na.Ka.No.E/3499/2016, Na.Ka.No.E/708/2017 and quash the same and pass such further orders.

For Petitioner in
W.P.No.29541/2018 : Ms.A.Dhevi

For Respondents in
W.P.No.29541 of 2019 : Mr.Haroon AL.Rasheed
for T.S.Gopalan & Co.,

For Petitioner in
W.P.No.193/2019 : Mr.Haroon AL.Rasheed
for T.S.Gopalan & Co.,

For respondents in
W.P.No.193/2019 : Mr.A.Zahir Hussain,
Government Advocate for R1
No appearance for R2 to R10.

COMMON ORDER

This matter was earlier listed on 25.01.2019 and this court, after hearing the submissions of both sides counsel, dictated the order. However, thereafter, it is represented by the learned counsel appearing on both sides that the Writ Petitions could be disposed of in the light of the order passed by this court in W.P.No.13172 of 2012 dated 29.06.2018 and in the same lines. Recording the said submission, the following order is passed today i.e., 31.01.2019.

2. By consent of both sides, the Writ Petitions are taken up for final disposal.

3. W.P.No.29541 of 2018 is filed by the individual petitioner. W.P.193 of 2019 is filed by Tamil Nadu Generation and Distribution Corporation, Vellore Electricity Distribution Circle, Vellore.

4. The Prayer in W.P.No.29541 of 2018 is to issue a writ of Mandamus to direct the respondents to implement the order dated 26.09.2017 made in Na.Ka.No.E/3499/2016 passed by Inspector of Labour, Vellore.

5. The Prayer in W.P.No.193 of 2019 is filed challenging the order passed by the 1st respondent/The Inspector of Labour, Vellore, dated 26.09.2017 in Proceedings Na.Ka.No.E/3489/2016, Na.Ka.No.E/3490/2016, Na.Ka.No.E/3493/2016, Na.Ka.No.E/3494/2016, Na.Ka.No./3495/2016, Na.Ka.No.E/3496/2016, Na.Ka.No.E/3498/2016, Na.Ka.No.E/3499/2016, Na.Ka.No.E/708/2017 and seeks to quash the same.

6. In short, in both the writ petitions, the issue focussed on, is the order passed by the Inspector of Labour, Vellore, dated 26.09.2017, directing 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.

7. W.P.No.29541 of 2018 is filed by the Petitioner/Workman, seeking to implement the aforesaid order dated 26.09.2017 passed by the Inspector of Labour. Whereas, W.P.No.193 of 2018 is filed challenging the very same order raising ground 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.

8. The learned Government Advocate appearing for the Electricity Board, produced the order copy passed in 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 Petitioner/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.

9. The learned counsel for the Writ Petitioner in W.P.No.29541 of 2018 would submit that liberty may be given to the Petitioner/workman 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 Petitioner submits that the Petitioner had already approached 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.

10. 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 Writ Petitioner in W.P.No.29541/2018 and Respondents 2 to 10 in W.P.No.193 of 2019 are permitted to submit fresh representations to the respondents, 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 thereof. 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 orders passed by the Inspector of Labour need not be given effect to."

11. The Writ Petitions are disposed of with the above direction. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

nvsri

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
- 3.The Inspector of Labour, Vellore

Copy To : The Management TANGEDCO, Chennai.

+2ccs to M/s.TS.Gopalan & Co, Advocate SR.No.8262

+1cc to M/s.A.Devi, Advocate SR.No.8326

WP.No.29541 of 2018
and W.P.No.193 of 2019

MG(CO)
GMY(04/03/2019)