

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.30603 of 2018
and WMP No.35681 of 2018

The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation Limited,
Vellore Electricity Distribution Circle,
Gandhi Nagar, Vellore - 632 002. ...Petitioner

-Vs-

1. The Inspector of Labour,
Authority under the Industrial Establishments,
(Conferment of Permanent Status to Workmen) Act
Vellore.
2. S. Devendran,
3. R. Remesh,
4. M. Velu,
5. K. Palani
6. M. Umapathi,
7. S. James,
8. A. Aravindan,
9. M. Babu, ...Respondents

Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of
Certiorari calling for the records of the 1st respondent in
proceedings in 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 dated 14.09.2017 and
quash the same.

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

For Respondent 1 : M. Karthikeyan
Additional Government Pleader

For Respondents 2 & 4 : Ms. A. Dhevi

For Respondents 3, & 5 to 9: No Appearance

ORDER

This 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/4255/2016Na.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."

8. The Writ Petition is disposed of with the above direction. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/--

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

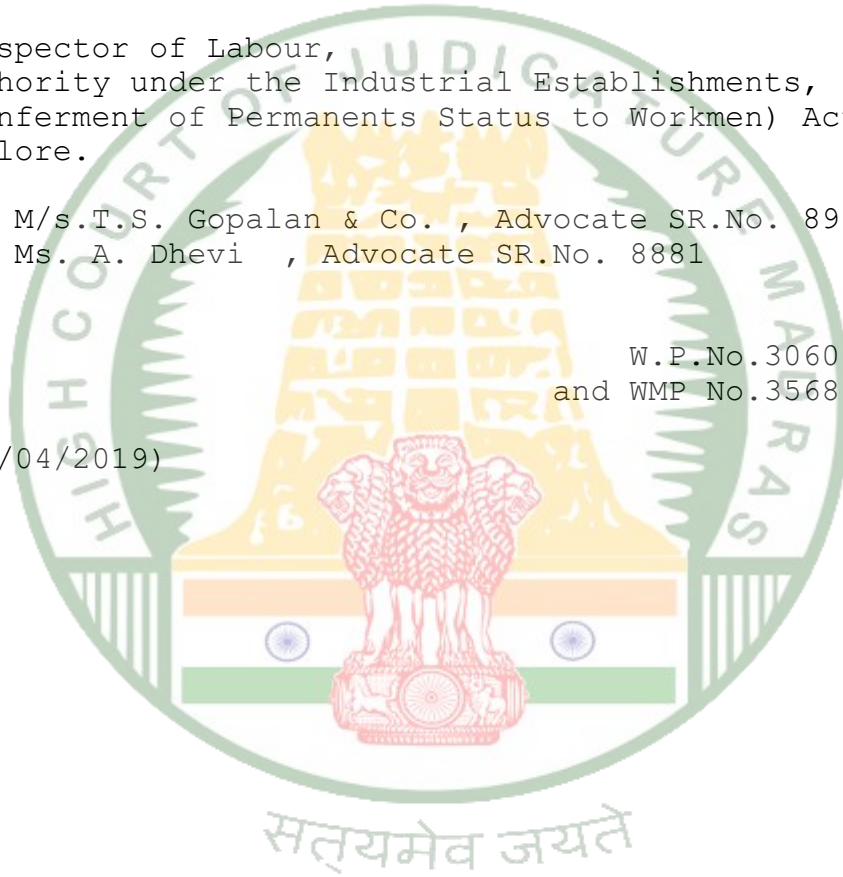
lbm
To

The Inspector of Labour,
Authority under the Industrial Establishments,
(Conferment of Permanent Status to Workmen) Act
Vellore.

+1cc to M/s.T.S. Gopalan & Co. , Advocate SR.No. 8914
+1cc to Ms. A. Dhevi , Advocate SR.No. 8881

W.P.No.30603 of 2018
and WMP No.35681 of 2018

A.SK(27/04/2019)



WEB COPY