

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :21.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.12793 of 2013

- 1.S.Raja
- 2.R.Santhoshkumar
- 3.K.Ramachandran
- 4.G.Govindaraji
- 5.M.Munirathinam
- 6.M.Suresh
- 7.N.Satthi
- 8.K.Sreeramulu
- 9.K.Mahendran
- 10.G.G.Balamurgan
- 11.R.Balu
- 12.K.Murali
- 13.P.M.Perumal
- 14.N.Thirunavukkarasu
- 15.J.chinnavan
- 16.K.Raj
- 17.K.Moses,
- 18.K.Arumugam
- 19.S.Siva
- 20.M.Dhanapal
- 21.A.Srini

.. Petitioners

- 1.The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Electricity Board (Now TANGEDCO)
Dharmapuri 5.

- 2.The Inspector of Labour,
Krishnagiri.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the 1st respondent to pass appropriate orders conferring permanent status in the services of the board in the appropriate positions befitting the nature of employment performed by the petitioners as ordered by the 2nd respondent in his proceeding made in No. A/3285/2010 dated 22.10.2010 with all attendant benefits.

For Petitioners: Mr.S.Elamurugan

For Respondents: Mr. Anand for
M/S. T.S.Gopalan & Co., for R1

: Mr.S.Thangavel, Spl.G.P., for R2

ORDER

This writ petition has been filed by the petitioner, to direct the 1st respondent to pass appropriate orders conferring permanent status in the services of the Board in the appropriate positions befitting the nature of employment performed by the petitioners as ordered by the 2nd respondent in his proceeding made in No. A/3285/2010 dated 22.10.2010 with all attendant benefits.

2. On perusal of the affidavit, it appears that the 1st respondent Board has engaged the petitioners as daily wage labourers continuously for more than 480 days within a period of 2 calendar years. Accordingly, they were entitled to get permanent status as provided under Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981. However the respondent Board evaded conferring permanent status, similarly situated persons approached the 2nd respondent praying for conferment of permanent status, which was allowed against which writ petition was filed and this Court upheld the validity of the orders of the Inspector of Labour and directed the authorities to confer permanent status to the workman and fit them in the appropriate post considering the nature and the work done and the qualifications. The view taken by the learned single Judge dated 09.12.2013 was also confirmed by Division Bench of this Court by order dated 24.10.2008 in W.A.NO.1302/03 etc., Hence the present writ petition has been filed to implement the said order.

3. On the above grounds raised, which is reiterated before this Court, learned counsel appearing for the respondents submitted that as against the order of the Inspector of Labour passed in favour of the workmen/petitioners herein, the respondents filed W.P. No.6602/2015 and this Court allowed the above petition by setting aside the order of the Inspector of Labour. Therefore, the petitioners are estopped from agitating the same issue once over.

4. This Court considered the rival submissions advanced by the learned counsel on either side and perused the materials available on record.

5. As against the order of the Inspector of Labour, granting permanent status to the workmen/petitioners herein, the respondent/Board filed W.P. No.6602/2015 and this Court after hearing the parties, held as under :-

2. The learned counsel appearing on behalf of the workmen made a submission that the Board after 12(3) Settlement dated 10.08.2007 issued orders in B.P.(Chairman)No.9, Administrative Branch, date 09.01.2008, granting permanent absorption for contract labourers, who all are not covered by 12(3) Settlement. Certain conditions are stipulated in the Board proceedings dated 09.01.2008 for granting permanent absorption.

3. The learned counsel appearing on behalf of the writ petitioner/Electricity Board made a submission that the petitioner is not having any objection for considering the case of the workmen in the light of the terms and conditions as stipulated in B.P. No.9, dated 09.01.2008. In view of the said submissions, the learned counsel appearing for the workmen also agreed and filed their memo stating that the case of the workmen may be considered by the writ petitioners management in terms of the B.P.No.9 dated 09.01.2008.

4. In this view of the matter, the workmen are permitted to submit fresh representations to the writ petitioner/Electricity Board, within a period of three(3) weeks from the date of receipt of a copy of this order, along with all necessary documents establishing their engagement as contract labourer. In the event of receiving any such representation from the workmen, the writ petitioner/Electricity Board is directed to consider the same, in the light of the Board proceedings issued dated 09.01.2008 and pass orders on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. In view of the submissions made by the learned counsel appearing on behalf of the workmen, 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 workmen in the light of the B.P.No.9 dated 09.01.2008. Thus, the orders passed by the Inspector of Labour need not be given effect to."

6. In the light of the stand taken by the petitioners herein in the earlier round of litigation for the very same relief, the petitioners are estopped from canvassing their case in a different tangent to suit their convenience, which cannot be permitted. Therefore, a mandamus, as sought for by the petitioners cannot be issued.

7. Accordingly, this writ petition stands dismissed in the light of the order passed by this Court in W.P. No.6602/15 dated 25.9.19. However there shall be no order as to costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

jrs
To

1.The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Electricity Board (Now TANGEDCO)
Dharmapuri 5.

2.The Inspector of Labour,
Krishnagiri.

+1 Cc to Mr.T.S. Gopalan & Co, sr 31058

+1 CC to Government Pleader sr 30973.

+1 CC to Mr.S.Elamurugan, Advocate sr 30817.

W.P. NO.12793/2013

NMI (CO)
SP(20/10/2020)

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