

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.29942 of 2004

K.Dayalan

... Petitioner

Vs.

1.The Executive Engineer,  
Tamil Nadu Water Supply  
and Drainage Board,  
Maintenance Division,  
7<sup>th</sup> East Cross Road,  
Gandhi Nagar, Vellore - 632 006.

2.The Assistant Executive Engineer,  
Tamil nadu Water Supply and  
Drainage Board,  
Maintenance Sub-Division,  
7<sup>th</sup> East Cross Road,  
Gandhi Nagar, Vellore - 632 006.

3.The Managing Director,  
Tamil Nadu Water Supply and  
Drainage Board,  
31, Kamarajar Salai,  
Chepauk, Chennai - 600 005.

4.Inspector of Labour,  
The authority under the TamilNadu,  
Industrial Establishment (Conferment  
of Permanent status to workmen) Act, 1981  
Vellore District.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records connected with the order proceedings of the fourth respondent passed in Pa.Mu.No.E/3019/03 dated 24.12.2003 and quash the same and further direct the 3<sup>rd</sup> respondent to confer permanent status on the petitioner from the date of completion of 480 days of service from 28.01.2000 with continuity of service, backwages and all other attendant benefits.

For Petitioner : Mr.G.P.Arivuchudar

For RespondentsR1 : Mr.M.Arokiyaraj

R4 : Mr.P.Chinnadurai  
Additional Government Pleader

RR2 & 3 : No Appearance  
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#### O R D E R

The writ petition is filed against the order of the 4<sup>th</sup> respondent authority under Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 dated 24.12.2003.

2. The petitioner claimed himself as a pump operator engaged by the 1<sup>st</sup> and 2<sup>nd</sup> respondents for a period of two years and that he continuously worked for 480 days under the direct control and supervision of the 1<sup>st</sup> and 2<sup>nd</sup> respondents and therefore, the petitioner claimed conferment of permanent status by his application dated 02.06.2003. The respondents have filed a reply that they have engaged regular persons as pump operator and they have no power to appoint any body in the department.

3. It appears that elaborate enquiry was conducted and evidence was let in by the parties. The authority ultimately found that the petitioner has not worked under the respondent for 480 days continuously within two years and therefore, he was not entitled to conferment of the status. Aggrieved over the same, the present writ petition has been filed.

4. From the perusal of the impugned order, it is seen that the petitioner himself in his deposition has stated that he worked under a contractor namely Sugi Engineer Works from 2002 onwards for a period of one year. Secondly, the respondents have marked, the letter issued by the Managing Director in Letter no.F12/AE/III/ O and M/2002 dated 22.08.2002 as proof of engaging contractors for doing the maintenance work and said contract came to an end on 19.02.2002.

5. Considering the above facts, the authority has held that the petitioner himself admitted as a worker under the contractor and that he was not continuously engaged for a period of 480 days and hence, denounced the claim of the petitioner.

6. From the materials it is seen that the petitioner has not proved that he had worked for more than 480 days

continuously within a period of two years. Therefore, the order passed by the 4<sup>th</sup> respondent does not warrant any inference.

7. The learned counsel for the petitioner would rely on the judgment of this Court in W.P.Nos.4675 and 3839 of 2004 dated 09.02.2012, wherein this Court has confirmed the order granting permanent status to the workmen engaged by the respondents. In that case, the authority under the Act confirmed permanent status having found that the working men works for more than 480 days. The Department has taken defence, they were engaged through contractor, but failed to prove that those contractors were licensed contractors. In those circumstances, refusing the contention of the respondents, confirmed the order of conferment of permanent status to those workmen.

8. The judgment of the Hon'ble Supreme Court relied on by the petitioner is not applicable to the case on hand. By his own admission, the petitioner has admitted that he has not continuously worked for 480 days and he was engaged as a casual worker under the contractor. Since the petitioner has not proved that the contractor is not a registered contract under the Contract Labour Regulation and Abolition Act, 1970 and he shall be considered as an employee engaged by the principal employer directly, he is not entitled to the benefit of Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen) Act, 1981.

In the absence of any material, I find that the 4<sup>th</sup> respondent has rightly rejected the claim of the petitioner. As discussed above, the writ petition does not merit for any consideration and accordingly, dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bri

To

1.The Executive Engineer,  
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and Drainage Board,  
Maintenance Division,  
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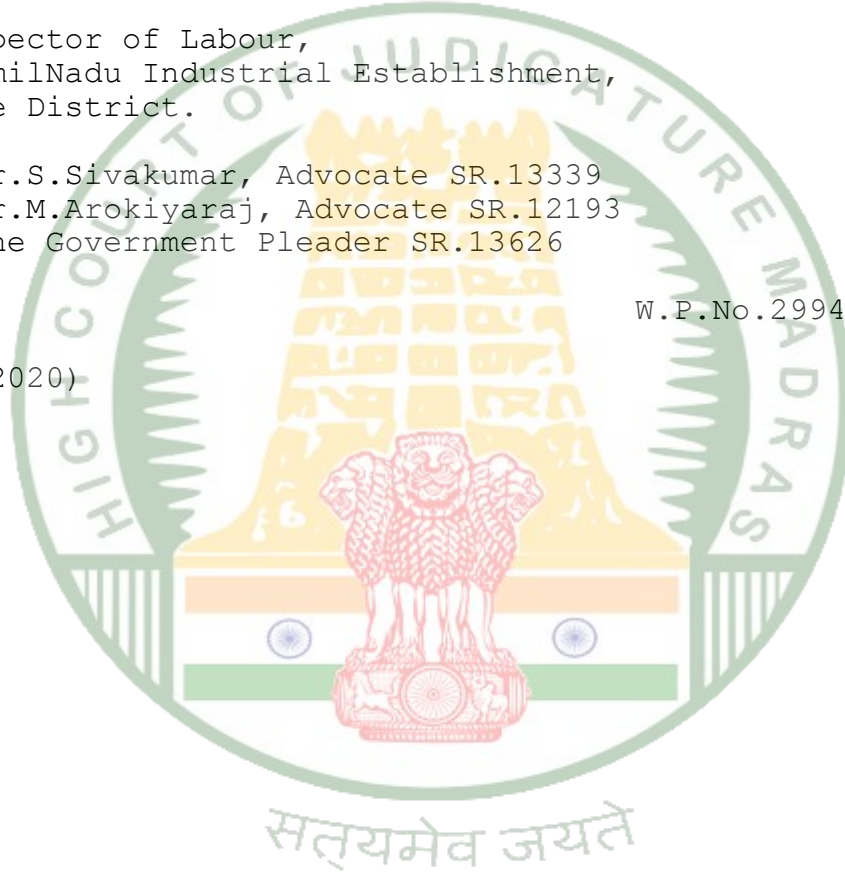
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31, Kamarajar Salai,  
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4.The Inspector of Labour,  
The TamilNadu Industrial Establishment,  
Vellore District.

+1cc to Mr.S.Sivakumar, Advocate SR.13339  
+1cc to Mr.M.Arokiyaraj, Advocate SR.12193  
+1cc to the Government Pleader SR.13626

W.P.No.29942 of 2004

BS(CO)  
CB(21/10/2020)



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