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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.32553 to 32565 of 2002
and

WMP.Nos.48476, 48478, 48480, 48482, 48484, 48486, 48488, 48490,
48492, 48494, 48496, 48498, 48500 of 2004

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELECTRICITY DISTRIBUTION CIRCLE,
TAMIL NADU ELECTRICITY BOARD,
DHARMAPURI.

... PETITIONER IN W.P.NO.32553 OF 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32554 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32555 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32556 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32557 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32558 of 2002



THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32559 of 2002

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THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32560 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32561 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32562 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32563 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32564 of 2002

THE SUPERINTENDING ENGINEER,
DHARMAPURI ELEC. DISTN. CIRCLE,
TAMILNADU ELECTRICITY BOARD, DHARMAPURI.

... PETITIONER in WP No.32565 of 2002

Vs.

1. THE PRESIDING OFFICER,
LABOUR COURT, SALEM.

2. M.SARAVANAN

... RESPONDENTS IN W.P.32553 OF 2002



1. THE PRESIDING OFFICER LABOUR COURT,
SALEM.

2. A MUNUSAMY,
SHOOLAGIRI, DHARMAPURI DISTRICT.

... RESPONDENTS in WP No.32554 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. S. MATHIYALAGAN ,
S/O.M. SRINIVASAN, MENASIR POST,
PAPIREDDIPATTY POST, DHARMAPURI.

... RESPONDENTS in WP No.32555 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. C. MADHESWAARAN,
S/O.CHINNA GOVINDAN ,
6/23 MTG HOUSING BOARD,
ROYAKOTTAI ROAD, HOSUR.

... RESPONDENTS in WP No.32556 of 2002

1.THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2.C.PERUMAL, S/O. CHINNASAMY,
VAMIAPURAM (VIL), SANTHOOR (PO),
POCHAMPALLI TALUK.

... RESPONDENTS in WP No.32557 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. C. MUNUSAMY, S/O.CHINNAPPA,
SHOOLAGIRI - I,
DHARMAPURI DISTRICT.

... RESPONDENTS in WP No.32558 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT SALEM.

2. S.JAMES, S/O.SOWRIAPPAN
RAILWAY STATION (OPP), HOSUR.

... RESPONDENTS in WP No.32559 of 2002



1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. B.RAMAN, S/O.BITTAPPAN,
SHOOLAGIRI - I, DHARMAPURI.

... RESPONDENTS in WP No.32560 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. M. VENKATESAN,
S/O. MUNIAPPANAIDU,
D.NO.17/A YARAB NAGAR,
DENKANIKOTTAI (PO), HOSUR.

... RESPONDENTS in WP No.32561 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. C. MATHAIYAN,
S/O. CHINNAPPANAIDU,
KARAGOOOR SERIAMPATTY (PO),
PALACODE TK, DHARMAPURI.

... RESPONDENTS in WP No.32562 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. S. CHINNAPAIYAN ,
S/O. SHAKKAPPA,
SHOOLAGIRI-I,
DHARMAPURI.

... RESPONDENTS in WP No.32563 of 2002

1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. L. KRISHNAN,
S/O. LAGUMAPPA,
SHOOLAGIRI-I,
DHARMAPURI.

... RESPONDENTS in WP No.32564 of 2002



1. THE PRESIDING OFFICER
LABOUR COURT, SALEM.

2. G. PALANIAPPAN,
S/O. CCHINNA SAMY,
CHINTHALPADI (PO),
PAPIREDDIPATTY TALUK,
DHARMAPURI DIST.

... RESPONDENTS in WP No.32565 of 2002

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.949/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32554 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.937/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32555 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.940/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32556 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.947/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32557 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.963/1998 and to quash the same as illegal and without jurisdiction.



Prayer in WP No.32558 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.936/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32559 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.944/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32560 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.938/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32561 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.948/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32562 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.946/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32563 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.935/1998 and to quash the same as illegal and without jurisdiction.



Prayer in WP No.32564 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.965/1998 and to quash the same as illegal and without jurisdiction.

Prayer in WP No.32565 of 2002 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.945/1998 and to quash the same as illegal and without jurisdiction.

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

For Respondent-2 : Mrs.R.Meenal (in all WP's)
R1 : Court

C O M M O N O R D E R

These Writ Petitions are heard through Video Conferencing on 13.09.2021.

2. In all these Writ Petitions, the second respondent, who were the contract labourers under the petitioner/Tamil Nadu Electricity Board had filed Claim Petitions stating that they were engaged for a minimum period of 30 days in two financial years and therefore eligible for payment of ex-gratia. The claim made by these contract labourers were disputed by the petitioner/Electricity Board before the Labour Court. However, through the impugned awards, their claims came to be accepted and a common order was accordingly passed. Challenging the same, the present Writ Petitions have been filed.

3. The issue as to whether the Authority can adjudicate the disputed claim under Section 33-C(2) of the Industrial Disputes Act, 1947 has come up for consideration in various cases before the Hon'ble Supreme Court and in one such case,



viz., The Municipal Corporation of Delhi Vs. Ganesh Razak reported in 1995 (1) SCC 235, it was held that the Labour Court has no jurisdiction to adjudicate the claims made under Section 33-C(2) of the ID Act, when the claim which is not based on an existing right but which may appropriately be made the subject matter of an industrial dispute. The relevant portion of the order in Ganesh Razak's case (supra) reads as follows:-

"12. The High Court has referred to some of these decisions but missed the true import thereof. The ratio of these decisions clearly indicates that where the very basis of the claim or the entitlement of the workmen to a certain benefit is disputed, there being no earlier adjudication or recognition thereof by the employer, the dispute relating to entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the scope of a proceeding under Section 33-C(2) of the Act. The Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under Section 33-C(2) of the Act. It is only when the entitlement has been earlier adjudicated or recognized by the employer and thereafter for the purpose of implementation or enforcement thereof some ambiguity requires interpretation that the interpretation is treated as incidental to the Labour Court's power under Section 33-C(2) like that of the executing court's power to interpret the decree for the purpose of its execution.

13. In these matters, the claim of the respondent workmen who were all daily-rated/casual workers, to be paid wages at the same rate as the regular workers, had not been earlier settled by adjudication or recognition by the employer without which the stage for computation of that benefit could not reach. The workmen's claim of doing the same kind of work and their entitlement to be paid wages at the same rate as the regular workmen on the principle



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of 'equal pay for equal work' being disputed, without an adjudication of their dispute resulting in acceptance of their claim to this effect, there could be no occasion for computation of the benefit on that basis to attract Section 33-C(2). The mere fact that some other workmen are alleged to have made a similar claim by filing writ petitions under Article 32 of the Constitution is indicative of the need for adjudication of the claim of entitlement to the benefit before computation of such a benefit could be sought. Respondents' claim is not based on a prior adjudication made in the writ petitions filed by some other workmen upholding a similar claim which could be relied on as an adjudication enuring to the benefit of these respondents as well. The writ petitions by some other workmen to which some reference was casually made, particulars of which are not available in these matters, have, therefore, no relevance for the present purpose. It must, therefore, be held that the Labour Court as well as the High Court were in error in treating as maintainable the applications made under Section 33-C (2) of the Act by these respondents."

4. The aforesaid decision came to be relied upon by a learned Single Judge of this Court in the case of The Superintending Engineer Vs. The Presiding Officer, Labour Court, Vellore and another passed in W.P.No.14045 of 2004, dated 25.09.2019, whereby the learned Single Judge had held that the Labour Court had no jurisdiction to entertain a Claim Petition on disputed claims. In view of the aforesaid decisions, the impugned awards passed by the Labour Court, cannot be sustained. Accordingly, the order of the Labour Court dated 20.07.2001 stands quashed. However, at this juncture, it is pertinent to point out that the Claim Petitions were made way back in the year 1997-1998 and the awards are of the year 2001. In case, the petitioner herein/Electricity Board had already made payment to the concerned contract labourers pursuant to the impugned awards, the Board shall refrain from recovering the payment already made to the concerned contract labourers.



5. In view of the above, the Writ Petitions stand closed. Consequently, the connected Miscellaneous Petition is closed. There shall be no orders as to costs.

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Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

DP

To

1. The Presiding Officer,
Labour Court, Salem.
2. The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Dharmapuri.

+1CC to M/s.R.Meenal, Advocate, Sr.No.46329

ORDER MADE IN
W.P.Nos.32553 to 32565 of 2002
and
WMP.Nos.48476, 48478, 48480,
48482, 48484, 48486, 48488,
48490, 48492, 48494,
48496, 48498, 48500 of 2004

BS (CO)
K.RK. (11.10.2021)