



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.29703 to 29712 of 2002

The Superintending Engineer,  
Dharmapuri Elecy. Distn. Circle,  
Tamil Nadu Electricity Board,  
Dharmapuri.

... Petitioner in all Wps.

Vs.

1.The Presiding Officer,  
Labour Court,  
Salem.

...Respondents No.1 in all Wps.

2.M.Ravichandran

... Respondent 2 in WP.No.29703/2002

P.N.Govindasamy

... Respondent No.2 in WP.29704 of 2002

M.Palanisamy

... Respondent No.2 in WP.29705 of 2002

C.Sadasivam

... Respondent No.2 in WP.29706 of 2002

V.Rangasamy

... Respondent No.2 in WP.29707 of 2002

M.D.Ventachalapathy

... Respondent No.2 in WP.29708 of 2002

A.Nagarajan

... Respondent No.2 in WP.29709 of 2002

M.Babu @ Viswanathan

... Respondent No.2 in WP.29710 of 2002

R.Elankumaran

... Respondent No.2 in WP.29711 of 2002

N.Sridhar

... Respondent No.2 in WP.29712 of 2002

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent relating to his common order dated 20.07.2001 passed in C.P.No.851, 861, 853, 862, 864, 852, 849, 854, 859 and 855 of 1998 and quash the same as illegal and without jurisdiction.

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

For Respondents :R1 - Court  
No Appearance [R2]



## COMMON ORDER

Heard Mr. Anand Gopalan, learned counsel for the petitioner. There is no representation for the second respondent.

2. Based on the petitioner/Board's proceedings, claims were made by the workmen under Section 33-C(2) of the Industrial Disputes Act, 1947, for payment of ex-gratia based on the number of days employed. The Management had objected to such claims before the Authority. However, the Authority had chosen to adjudicate the workmen's entitlement for the ex-gratia payment and accordingly, had computed various amounts in favour of the workmen.

3. This Court in various orders had held that adjudication on disputed claims under Section 33-C(2) of the Industrial Disputes Act is impermissible. In one such order passed in a batch of Writ Petitions in the case of 'The Superintending Engineer, D.E.D.C Vs. The Presiding Officer, Labour Court, Salem' passed in W.P.Nos.32553 to 32565 of 2002 dated 13.09.2021, this ratio was ratified in the following manner:-

".....

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





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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."

4. Incidentally, the aforesaid extract pertains to a similar claim made by the Contract Labourers for payment of ex-gratia. In view of the wordings in Section 33-C(2), as well as the decision extracted above, the adjudication made by the Authority thereby, computing the ex-gratia payment, cannot be sustained.

5. Accordingly, the impugned orders dated 20.07.2001 passed in C.P.Nos.851, 861, 853, 862, 864, 852, 849, 854, 859 & 855 of 1998 respectively, by the first respondent/Labour Court, are quashed. As a result, all these Writ Petitions are allowed. No costs.

Sd/-

Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

Sni



To

The Presiding Officer,  
Labour Court,  
Salem.

+1cc to Mr.T.S.Gopalan & Co, Advocate SR.No.11132

W.P.Nos.29703 to 29712 of 2002

SSV(CO)  
CB(17/03/2022)