



WEB COPY



W.P.No.13034 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13034 of 2016

T.Dhayalan

... Petitioner

Vs.

1.The Chairman Cum Managing Director
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai,
Nungampakkam,
Chennai – 2.

2.The Chief Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai,
Nungampakkam,
Chennai – 2.

3.The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Dharmapuri District.

... Respondents



W.P.No.13034 of 2016

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to consider petitioner's representation dated 18.11.2015 requesting to regularise his service.

For Petitioner : Ms.L.Aishwarya Lakshmi
For Mr.K.Thiruvengadam

For Respondents : Mr.P.Subramaniam
[For TANGEDCO]

ORDER

The relief as such sought for in the present writ petition is to direct the respondents to consider the representation submitted by the writ petitioner on 18.11.2015 to regularise his services.

2. The petitioner states that he was a contract labourer engaged for the purpose of performing the job in Electricity Board. The petitioner states that he served 480 days in two consecutive years as per the Tamil Nadu Industrial Establishment (conferment of Permanent Status to Workmen) Act, 1981, entitled for permanent absorption.



3. The learned counsel for the petitioner states that he had approached the Inspector of Labour under the said Act and an order was passed by the Inspector of Labour in Krishnagiri dated 17.04.2014 and the said order has not been acted upon and therefore, the petitioner submitted a representation to consider him for permanent absorption.

4. This Court has consistently held that the Inspector of Labour is not competent to grant permanent absorption without any adjudication in detail with reference to the documents and evidences. The order of the Inspector of Labour was issued without any adjudication of disputed issues and thus, the same cannot be implemented directly by the Electricity Board. The Tamil Nadu Electricity Board has to consider the cases for permanent absorption based on the Service Regulations as applicable.

5. In the present case, the petitioner states that he was engaged as contract labourer. However, the engagement was through a private contractor and the petitioner could not able to establish that he was neither appointed by the competent authority of the TANGEDCO nor terminated by the authorities. Therefore, an adjudication is required. If at all the petitioner



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claims any right against the respondent Board, merely issuing a direction to consider the representation submitted by the writ petitioner, the same would do no service to the cause of justice. Contrarily the petitioner will be back again to the Court by way of another litigation and this would lead to unnecessarily harassment to the litigants.

6. Always the High Court is expected to decide the issues and the rights established by the parties. Contrarily, a routine direction to consider the representation will not do any service to the cause of justice. In the present case, the petitioner has not established any right for the purpose of issuing direction to consider representation. The order of the Inspector of Labour cannot be acted upon in the absence of adjudication. If at all the petitioner claims that he is an employee of the Tamil Nadu Electricity Board then the said factum is to be established through documents and evidences. Mere representation would not provide any cause for the purpose of entertaining a writ petition and therefore the Writ Petition stands dismissed. No costs.

09.11.2022

Jeni
Index : Yes
Speaking order



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To

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S.M.SUBRAMANIAM, J.

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