



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.4376 of 2014

and

M.P.No.1 of 2014

The Superintending Engineer,
TNEB, Kanchipuram Electricity Distribution Circle,
Kanchipuram.

...Petitioner

-Vs-

1.The Inspector of Labour,
Thiruvallur.

2.K.Periyasami

3.M.Balasundaram

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent, relating to his proceedings No-P.A.MU No.3384/2005 dated 17.11.2008, to quash the same and direct the petitioner to confer permanent status to the respondents 2 and 3 as workers in Tamil Nadu Electricity Board as illegal and without jurisdiction.

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

For R1 : Mr.C.Selvaraj,
Additional Government Pleader

For R2 & R3 : Mr.S.Elamurugan

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. To an application made under Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act [hereinafter referred to as 'the Act'], the authority, through the impugned order dated 17.11.2008, had directed conferment of permanent status to the respondents 2 and



3, on their completion of 480 days of continuous service in the preceding 24 calendar months. This order is put under challenge in the present writ petition.

3. A perusal of the order does not reveal as to the date from which the respondents 2 and 3 have commenced their work under the petitioner-Board and the date on which they had completed 480 days in 24 calendar months. The first respondent herein, exercising his power under Section 3 of the Act, is required to satisfy himself that the concerned applicant/workman has completed 480 days in 24 calendar months, by specifically referring to the dates on which he had worked continuously through these 2 years. Apparently, such specific finding is not found in the present impugned order.

4. In a recent decision of this Court, in the case of Superintending Engineer, Erode Electricity Distribution Circle Vs. Inspector of Labour and others, reported in 2022 SCC OnLine Mad 1003, the Hon'ble Division Bench had pointed out this lacuna and had remitted back the matter to the authority for conducting a summary enquiry afresh, after setting aside the order passed by the Inspector of Labour. The relevant portion of the order reads as follows:-

"34. We have considered the submission aforesaid and find that the order passed by the Labour Inspector needs to be interfered with remand of the case. It is, however, to be made clear that the Labour Inspector would not cause enquiry beyond the powers given under the Act of 1981 and thereby would not be having jurisdiction to adjudicate the complicated questions of fact and law in reference to any other statute than the Act of 1981. The Labour Inspector may, for the purpose of conducting summary enquiry, allow the parties to produce documents and if any of the workmen has completed 480 days of continuous service in 24 calendar months, appropriate directions can be issued for granting permanency. However, even if such an order is issued, it should be with a clear finding about each workman and the number of working days by referring to the period of 24 calendar months. The benefit as to the consequences thereupon would be only for the period of employment and if any of the workman is discontinued or not in service, he would be entitled to the benefit only for the period of service and not beyond that and, that too, after the completion of continuous service of 480 days in 24 calendar months, and not for a prior



WEB COPY

period. The direction aforesaid is not driven by the settlement for the reason that the workmen herein are those who were not extended the benefit of settlement and, therefore, sought claims by maintaining claim separately. However, it would not preclude both the sides from entering into settlement, if they so choose, during the period of summary enquiry by the Labour Inspector. The issue as to whether the respondents fall within the definition of "workman" is however decided against the petitioner Corporation, as not only a settlement was entered, but adjudication about claim to seek permanency has been decided earlier in reference to similarly placed.

35. With the aforesaid directions, all the writ petitions are disposed of by causing interference with the order passed by the Labour Inspector. The orders passed by the Labour Inspector are set aside with remand of the case to the Labour Inspector for passing orders afresh, after summary enquiry."

5. The learned counsel appearing for the respondents 2 and 3 submitted that they are agreeable, if the matters are remanded back to the first respondent herein and made a request that a time limit may be stipulated for the Inspector of Labour to pass orders, after summary enquiry.

6. In the light of the aforesaid decision of the Hon'ble Division Bench, the impugned order dated 17.11.2008 passed by the first respondent herein is quashed and the matter is remanded back to the first respondent for passing fresh orders, after summary enquiry. The first respondent shall extend due opportunity to both the representative of the petitioner-Board, as well as the respondents 2 and 3, while taking such a final decision and complete the entire proceedings, atleast within a period of six (6) months from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

hvk



To

1.The Inspector of Labour,
Thiruvallur.

2.The Superintending Engineer,
TNEB,
Kanchipuram Electricity Distribution Circle,
Kanchipuram.

+1cc to Mr.T.S.Gopalan & CO, Advocate, S.R.No.28537

+1cc to Mr.S.Elamurugan, Advocate, S.R.No.29455

+1cc to the Government Pleader, S.R.No.29673

W.P.No.4376 of 2014
and
M.P.No.1 of 2014

JPL (CO)
GN (24/05/2022)