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W.P.No.27321 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.27321 of 2014
and M.P.No.1 of 2014

The Superintending Engineer,
Thiruvannamalai Electricity Distribution Circle,
TANGEDCO, Vengikal,
Thiruvannamalai - 606 604.

... Petitioner

-Vs-

1. The Inspector of Labour,
Thiruvannamalai.

2. M.Ravi
3. V.Saravanan
4. G.Veeramani
5. R.Karthi
6. K.Ramesh
7. K.Kudu Sahib
8. A.Kandan
9. K.Pachaiappan
10. K.Suresh Babu

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the award passed by the 1st respondent made in Na.Ka.No.E/396/2013 dated 26.07.2013, quash the same.



WEB COPY



W.P.No.27321 of 2014

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

For Respondents : Mrs.R.L.Karthika (for R1)
Government Advocate.
Mr.S.N.Ravichandran (For R3, 5, 6 & 8)
No appearance (for R2, 4, 9 and 10)

ORDER

The award dated 26.07.2013 passed by the 1st respondent viz., the Inspector of Labour, Thiruvannamalai, is under challenge in the present writ petition.

2. The petitioner, TANGEDCO filed this writ petition questioning the validity of the award passed by the 1st respondent viz., the Inspector of Labour, Thiruvannamalai. Several grounds are raised including the maintainability of the petition before the 1st respondent viz., the Inspector of Labour, Thiruvannamalai, under the Act. As TANGEDCO is the Government of Tamil Nadu undertaking, the Special Rules are applicable to the employees of the TANGEDCO. When the Special Rules are in force, general Act cannot be applied. Therefore, the application itself has been questioned by the TANGEDCO in the present writ petition.



W.P.No.27321 of 2014

WEB COPY

3. Similar writ petitions were filed before the Hon'ble First Bench of this Court and the Hon'ble First Bench has decided those writ petitions in the case of *Superintending Engineer, Erode Electricity Distribution Circle, Tamil Nadu Electricity Board vs. Inspector of Labour, Erode and others*, reported in (2022) SCC Online Mad 1003. The Hon'ble First Bench passed the following orders:

“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 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.

36. There will be no order as to costs. Consequently, all miscellaneous petitions are closed.

4. In view of the order of the Hon'ble First Bench cited supra, the



W.P.No.27321 of 2014

matter is to be remanded back to the 1st respondent viz., the Inspector of Labour, Thiruvannamalai, for fresh consideration.

5. Accordingly, the order impugned passed by the first respondent, dated 26.07.2013 are quashed and the matters are remanded back to the 1st respondent viz., the Inspector of Labour, Thiruvannamalai, for fresh consideration on merits and in accordance with law and the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

05.07.2022

Index: Yes/No
Speaking/Non-speaking order.
ars

To

The Inspector of Labour,
Thiruvannamalai.



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W.P.No.27321 of 2014

S.M.SUBRAMANIAM, J.

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W.P.No.27321 of 2014

05.07.2022