



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .Nos.19947, 19948 and 19949 of 2013
and

M.P. (MD) .Nos.1, 1 and 1 of 2013 and 1, 1 and 1 of 2014

W.P. (MD) .No.19947 of 2013

1.The Superintending Engineer,
Madurai Distribution Circle,
Tamil Nadu Electricity Board,
K.Pudur, Madurai-7.

2.The Assistant Engineer,
Tamil Nadu Electricity Board,
K.Pudhur,
Madurai.

... Petitioners

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.M.Suresh.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order passed by the 1st respondent in C.P.No.22 of 2011 dated 26.09.2012 and quash the same.

For Petitioners	:	Mr.Anand Gopalan For Mr.T.S.Gopalan and Co.,
For R-1	:	Labour Court
For R-2	:	Mr.R.Thangasamy

W.P. (MD) .No.19948 of 2013

1.The Superintending Engineer,
Madurai Distribution Circle,
Tamil Nadu Electricity Board,
K.Pudur, Madurai-7.



2.The Assistant Engineer,
Tamil Nadu Electricity Board,
K.Pudhur,
Madurai.

... Petitioners

WEB COPY

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.M.Murugavel

3.A.Chandrasekaran

4.M.Mayandi

5.K.Muthuraman

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order passed by the 1st respondent in C.P.No.27 of 2011 dated 26.09.2012 and quash the same.

For Petitioners	:	Mr.Anand Gopalan For Mr.T.S.Gopalan and Co.,
For R-1	:	Labour Court
For R-2 to R-5	:	Mr.R.Thangasamy

W.P. (MD) .No.19949 of 2013

1.The Superintending Engineer,
Madurai Distribution Circle,
Tamil Nadu Electricity Board,
K.Pudur, Madurai-7.

2.The Assistant Engineer,
Tamil Nadu Electricity Board,
K.Pudhur,
Madurai.

... Petitioners

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.R.Mariappan



3.M.Meenakshi Sundaram

4.G.Manikandan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order passed by the 1st respondent in C.P.No.34 of 2011 dated 26.09.2012 and quash the same.

For Petitioners	:	Mr.Anand Gopalan
		For Mr.T.S.Gopalan and Co.,
For R-1	:	Labour Court
For R-2	:	No Appearance
For R-3 and R-4	:	Mr.R.Thangasamy

COMMON ORDER

The Writ Petitions have been filed by the TANGEDCO challenging the order dated 26.09.2012 in C.P.Nos.22, 27 and 34 of 2011 passed by the first respondent in all the Writ Petitions.

2. The private respondents were engaged by the TANGEDCO as contract labourers and the private respondents had preferred a common petition before the Labour Officer claiming permanent status as workmen under Section 3 of the Tamil Nadu Industrial Establishment (conferment of Permanent Status to Workmen) Act, 1981. The same was allowed. Thereafter, the private respondents have filed the aforesaid Claim Petitions before the Labour Court seeking the scale of pay applicable to them. The Labour Court has allowed all the Claim Petitions by directing the Management to pay the amount due to the private respondents. Aggrieved over, the present Writ Petitions have been filed by the TANGEDCO.

3. The contention of the petitioners is that there is no evidence to show that the second respondent is working daily after conferring the permanent status to the respondent. The learned counsel for the petitioners relied on Division Bench order rendered in Superintending Engineer, Tamil Nadu Electricity Board Vs. Inspector of Labour and others reported in 2022 SCC OnLine Mad 1003 wherein it has been stated as under:

"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 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."

4. The consequential monetary benefits after conferment of permanent status shall be granted only if the workmen continued in service after the conferment of permanent status. If the workmen has discontinued or not in service then the payment cannot be made. The contention of the petitioner's Management is that there is no piece of paper to show whether the respondents carried out the work after permanency. In certain cases, they have not come for work regularly on daily basis. The Labour Court has not considered these factors in the impugned order and hence the case ought to be remanded back for fresh consideration.

5. In similar circumstances, this Court has also remanded the case back to the Labour Court. However, there was a condition to pay Rs.1,00,000/- to the private respondents since they have been paid less. The counsel for the respondents submitted that the private respondents are under poverty line and they are suffering and therefore, the amount Rupees One Lakh is not sufficient and pleaded to pay Rs.3,00,000/- (Rupees Three Lakhs only). But the management submitted that the private respondents were paid salary that is applicable to the contract labourers. However, the claim is made without deducting the said amount. This plea shall also be considered by the Labour Court.



6. Therefore, this Court is of the considered opinion that the petitioner's Management shall pay Rs.2,00,000/- (Rupees Two Lakhs only) to the private respondents and the case is remitted to Labour Court to re-hear the petition. The petitioner's Management as well as the private respondents are at liberty to submit any evidence in order to substantiate the claim. The Labour Court is directed to complete the proceedings within a period of two (2) months from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Presiding Officer,
Labour Court, Madurai.
- 2.The Superintending Engineer,
Madurai Distribution Circle,
Tamil Nadu Electricity Board,K.Pudur, Madurai-7.
- 3.The Assistant Engineer,
Tamil Nadu Electricity Board,K.Pudhur, Madurai.

Copy to

The Section Officer,V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to M/s.R. THANGASAMY, Advocate (SR-20594[F]
dated 22/04/2022)

W.P. (MD) .Nos.19947, 19948 and 19949 of 2013

20.04.2022

nsn(CO)

TR(14.06.2022) 5P 7C