



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.7539 to 7544 of 2022

and

W.M.P. (MD) Nos.5700 to 5711 of 2022

1.The Superintending Engineer,
Dindigul Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation,
Meenakshinaickenpatti, Dindigul.

2.The Assistant Engineer,
Generation and Maintenance,
Gramam East Vathalakundu,
Tamil Nadu Electricity Generation and
Distribution Corporation,
Dindigul.

... Petitioners in all W.Ps.

-vs-

1. Assistant Commissioner of Labour (Enforcement),
Authority Under the Tamil Nadu Industrial Establishment
(Conferment of Permanent Status to Workmen) Act 1981,
Dindigul.

... 1st Respondent in all W.Ps.

2.M.Ganesan ... 2nd Respondent in
W.P. (MD) No.7539 of 2022

2.S.Rajkumar ... 2nd Respondent in
W.P. (MD) No.7540 of 2022

2.P.Nagendran ... 2nd Respondent in
W.P. (MD) No.7541 of 2022

2.A.Nagaraj ... 2nd Respondent in
W.P. (MD) No.7542 of 2022

2.A.Baskarapandian ... 2nd Respondent in
W.P. (MD) No.7543 of 2022

2.P.Kesavan ... 2nd Respondent in
W.P. (MD) No.7544 of 2022

Prayer in all W.Ps.:- Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 1st respondent in C.P.S.Nos.27, 29, 28, 30, 32 & 31 of 2014 respectively and quash the orders dated 31.07.2020.



In all cases

For Petitioner : Ms.P.Malini
For Respondent-1 : Mr.D.Sadiq Raja
Additional Government Pleader

WEB COPY

COMMON ORDER

The orders dated 31.07.2020 passed by the Assistant Commissioner of Labour (Enforcement), Dindigul, under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, are under challenge in the present writ petitions.

2. The petitioner, TANGEDCO filed these writ petitions questioning the validity of the awards passed by the Assistant Commissioner of Labour (Enforcement), Dindigul, under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as 'the Act'). Several grounds are raised including the maintainability of the petitions before the Assistant Commissioner of Labour (Enforcement), Dindigul, 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 all the writ petitions.

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 matters are to be remanded back to the Assistant Commissioner of Labour (Enforcement), Dindigul, for fresh consideration.

5. Accordingly, the orders impugned passed by the first respondent, dated 31.07.2020 are quashed and the matters are remanded back to the Assistant Commissioner of Labour (Enforcement) Dindigul, for fresh consideration on merits and in accordance with law and the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

04/05/2022

Sub Assistant Registrar(CS)



To

The Assistant Commissioner of Labour (Enforcement),
Authority Under the Tamil Nadu Industrial Establishment
(Conferment of Permanent Status to Workmen) Act 1981,
Dindigul.

+1 CC to M/s.T.S. GOPALAN & CO, Advocate (SR-20187[F] dated
21/04/2022)

+1 CC to M/s.SPL.GP. (SR-20728[F] dated 22/04/2022)

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