



W.P.(MD)No.2658 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 2658 of 2014

and

M.P.(MD)No.1 of 2014

M/s.Valuthur Gas Turbine Power Station,
Represented by its Superintending Engineer,
Mr.R.Kamaraj,
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
Perungulam Post, Valanthuaravai,
Ramanathapuram – 623 536.

....

Petitioner

Vs.

1. The Director of Industrial Safety and Health,
Competent Authority under the Tamil Nadu
Industrial Establishment (Conferment of
Permanent Status to Workmen) Act 1981,
Office of the Factories, Thallakulam, Madurai.

2. R.Sathyaraj

3. M.Stalin

4. N.Kannan

5. S.Thillaisekar

....

Respondents



W.P.(MD)No.2658 of 2014

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, or any other appropriate Writ or order or direction in the nature of Writ, to call for records relating to the impugned order cum direction to the 1st respondent in his file reference No.E/1797/II/2013 dated 01.12.2013 and quash the order of the 1st respondent and such other appropriate directions and grant such other remedy and relief to this petitioner.

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

For R1 : Mr.C.Baskaran,
Government Advocate

For R-2 to R-5 : No appearance

ORDER

This Writ Petition has been filed for issuing *Writ of Certiorari*, to quash the impugned order cum direction to the 1st respondent in his file reference No.E/1797/II/2013 dated 01.12.2013.

2. The petitioner is a Union under TNGEDCO. The respondent Nos.2 to 5 have filed a petition before the Inspector of Labour by invoking Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen)



W.P.(MD)No.2658 of 2014

WEB COPY

Act, 1981 (*herein after referred as the Act 1981*). The claim of the respondents is that they have been working in the petitioner's establishment through a Contract Labour. Therefore, the respondents are seeking confirmation status in the petitioner's union.

2. The 1st respondent has categorically held and rendered a finding that the respondent Nos.2 to 5 are working as Contract employees for a long time. Even, while the Contractors were changed in certain cases the contract employees were not changed. Taking this facts into consideration, the Inspector of Labour has conferred permanent status to the said respondents. Aggrieved over the same, this instant Writ Petition is filed.

3. The learned counsel appearing for the management submitted that the issue of granting permanency was literally argued before the Principal Seat of this Court and this Court has also rendered finding in ***W.P.No.4061 of 2013 and its Batch, reported in 2022 SCC Online Mad 1003.***



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4. The issue of section 3 of the Act, 1981, was raised before the Hon'ble Division Bench of this Court and this Court has rendered a finding that the order passed in the case of *Superintending Engineer, Vellore Electricity Distribution Circle, Vellore Vs. Inspector of Labour, Perambalur (2004) 3 LLN 598*. The Hon'ble Division Bench of this Court further held that the Permanency Act, 1981 is having only summary power to enquire. While the elaborate adjudication can be done only under the Act, 1948. The Labour Inspector under Act, 1981 cannot deal with other statutes under the Contract Labour (Regulation and Abolition Act, 1970 (*herein after referred as the Act 1970*), cannot be adjudicated before the Inspector of Labour. The relevant portion is extracted hereunder:

.....

“24. The Labour Inspector vested with the power under the Act of 1981 is said to be having a summary power of enquiry, while an elaborate adjudication of questions of fact and law can be only under the Act of 1947.

25. In view of the above, we can safely hold that the Labour Inspector can exercise jurisdiction only in the nature of summary enquiry, while a case involving



W.P.(MD)No.2658 of 2014

WEB COPY

complicated question of fact and law to be left for its adjudication under the Act of 1947. The Labour Inspector can exercise his power under the framework of the Act of 1981. He has no power to adjudicate the issue in reference to other statutes, which includes the Act of 1970.”

5. Therefore, this Court is of the considered opinion that the issue raised before this Court in the present writ petition is also one under the Act, 1970. Therefore, the Inspector of Labour has no power to adjudicate the Act. The only remedy is available to adjudicate the petition before the Labour Court.

6. Accordingly, this writ Petition is allowed. The impugned order passed by the 1st respondent in file reference No.E/1797/II/2013, dated 01.12.2013, is hereby set aside. No Costs. Consequently, connected miscellaneous petition is closed. The respondents are at liberty to file a petition before the Labour Court.

Index : Yes / No
Internet : Yes
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16.11.2022



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W.P.(MD)No.2658 of 2014

S.SRIMATHY, J

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To

The Director of Industrial Safety and Health,
Competent Authority under the Tamil Nadu
Industrial Establishment,
Office of the Factories, Thallakulam, Madurai.

**Order made in
W.P.(MD)No.2658 of 2014**

16.11.2022