



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 12.01.2021
DELIVERED ON : 15.02.2022

CORAM:

THE HONOURABLE **MRS. JUSTICE S. SRIMATHY**

W.P. (MD) No. 761 of 2015

M.P. (MD) .No. 1 of 2015

WEB COPY

P.Chitradevi

...Petitioner

/Vs./

1.The Superintending Engineer,
Theni Distribution Circle,
TANGEDCO, Theni.

2.The Assistant Engineer (Civil),
R.C.C.Yard,
Theni Distribution Circle,
TANGEDCO, Vaigai Dam Post,
Theni District.

3.The Inspector of Labour,
Theni District.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in Na.Ka.No.1317/2011 dated 31.10.2014, quash the same insofar as the petitioner is concerned in not granting permanent status to the petitioner in her employment and consequently direct the third respondent herein to extend the benefit of permanent status to the petitioner on par with similarly placed petitioners in Na.Ka.No.1317/2011 dated 31.10.2014 on the file of the third respondent within a reasonable time.

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

O R D E R

This Writ Petition has been filed to call for the records relating to the impugned order passed by the third respondent, quash the same insofar as the petitioner is concerned and direct the third



respondent herein to extend the benefit of permanent status to the petitioner.

2. The petitioner and 11 casual workers were employed by the respondent Corporation as Casual Labour, for manufacturing of R.C.C. poles for extension of electricity supply to the public, without issuing any appointment order, without maintaining the attendance Register and payment of wages register on contract basis. 12 casual workers preferred a petition before the Inspector of Labour, Theni, claiming permanent status under Section 3 Sub-Clause (1) of the Tamil Nadu Industrial Establishments Conferment of Permanent Status to Workmen Act, 1981. The petitioner relied on the judgment rendered by the Hon'ble Supreme Court reported in **AIR 1997 SC 645 and appeal (Civil) 1902-1903 of 2000 between M/s.Bharat Cooking Coal Limited vs. Rashtriya Colliery Mazdoor Sangh dated 16.01.2006**. The third respondent/Inspector of Labour has issued summons to all the twelve writ petitioners. In the meanwhile, the Contract Labour (Regulation and Abolition) Act, 1970 was passed prohibiting the Casual Labour on contract basis. Under the Act, the first respondent Corporation ought to have registered themselves as Principal employer. After scrutiny of documents, like Statutory records, Registers, Employment Card, Muster Roll, the third respondent found that in the absence of said statutory records, the first respondent herein has suppressed the genuineness of employment and staff register. Hence, the third respondent/the Inspector of Labour has granted permanent status to all eleven employees except the petitioner.

3. The contention of the petitioner is that during the cross-examination, the petitioner was threatened by the officials of the second respondent. Therefore, the petitioner did not appear for cross-examination. Since the petitioner has not appeared for cross-examination and has not proved her case, the third respondent/Inspector of Labour has declined to grant the relief of permanent status. Aggrieved over the same, the present Writ Petition has been filed.

4. The respondents have not filed any counter. However, the respondents submitted that since the petitioner has not appeared before the Inspector of Labour to prove her case and has not subjected herself for cross-examination, the Inspector of Labour has not granted conferment of permanent status to the petitioner. Since the petitioner has not proved that she has worked for more than 420 days, the petitioner is not entitled for the relief of permanent status. The respondents have also objected to the reckless allegations averred in the affidavit that the respondent Corporation officials threatened the petitioner and that is why, she did not appear for cross-examination.



5. It appears that the third respondent, after scrutiny of the documents and the statements of eleven casual laborers, have granted permanent status to eleven casual labourers. The only person left out is the petitioner and the petitioner was not granted the permanent status, because she did not subject herself for cross-examination and she has not produced any relevant records to substantiate her claim. Therefore, to meet the ends of justice, this Court is of the considered opinion that the matter ought to be remitted back to the third respondent/Inspector of Labour. Hence, this Court remits the matter back to the third respondent. The petitioner shall submit all the relevant documents before the third respondent and subject herself to the cross-examination. Thereafter, the Inspector of Labour shall pass orders based on available records.

6. However, since the petitioner has made reckless allegation as against the respondent Nos.1 and 2, this Court imposes costs on the petitioner to the tune of Rs.2,000/- (Rupees Two Thousand Only) payable to the following organization which is meant for disabled children.

"SAKSHAM"

Swami Sivanandha Sevarshram,
Austin Patti Road, Thopur, Madurai
Contact Person Sri Govindharaj
Mobile Number: 63740 48342

7. The petitioner is directed to file the compliance report before this Court on or before 25.02.2022. With the above direction, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Supeintending Engineer,
Theni Distribution Circle,
TANGEDCO, Theni.

2.The Assistant Engineer (Civil),
R.C.C.Yard,
Theni Distribution Circle,
TANGEDCO, Vaigai Dam Post,
Theni District.

3.The Inspector of Labour,
Theni District.

COPY TO:

1 Sri Govindharaj (**Mobile Number: 63740 48342**)
"SAKSHAM"

Swami Sivanandha Sevarshram,
Austin Patti Road, Thopur, Madurai

2 The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.P.MALINI, Advocate Sr.No.6125

+1cc to Mr.K.APPADURAI, Advocate Sr.No.6347

Order made in
W.P. (MD) No.761 of 2015
Dated:
15.01.2022

SA(05.03.2022) 4P 8C