



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .Nos.13725 of 2017 and 14002 of 2018

and

W.M.P. (MD) .No.10706 of 2017

W.P. (MD) .No.13725 of 2017

1.The Superintending Engineer,
Ramanathapuram Electricity,
Distribution Circle,
Tamil Nadu Generation and
Distribution Corporation Limited,
Ramanathapuram.

2.The Assistant Engineer/Electrical,
Rameswaram Section,
Tamil Nadu Generation and
Distribution Corporation Limited,
Rameswaram.

... Petitioners

Vs.

1.The Inspector of Labour,
(Authority under the Tamil Nadu Industrial
Establishment (Conferment of Permanent
Status to Workmen) Act, 1981
Ramanathapuram.

2.K.M.Saravanan

... 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 from the first respondent in proceedings Na.Ka.No.207/2013, and quash the order of the first respondent dated 31.08.2015.

For Petitioner	:	Mr.Anand Gopalan
		For M/s.T.S.Gopalan & Co
For Respondents	:	No Appearance



W.P. (MD) .No.14002 of 2018

K.M.Saravanan

... Petitioner

Vs.

WEB COPY

- 1.The Tamil Nadu Corporation and Distribution Corporation Limited,
Represented by the Chairman-cum-Managing Director,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.
 - 2.The Tamil Nadu Generation and Distribution Corporation Limited,
Represented by the Chief Engineer/ Personnel,
144, Anna Salai,
Chennai - 600 002.
 - 3.The Superintending Engineer,
Ramnad Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
Ramnad - 623 503.
 - 4.The Assistant Electrical Engineer,
Rameshwaram Electricity Division,
Tamil Nadu Generation and Distribution Corporation Limited,
Rameshwaram - 623 526.
 - 5.The Inspector of Labour,
The authority designated under
Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act, 1981,
Ramanadhapuram - 623 503.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to grant permanent status to the petitioner herein with effect from 27.03.1999 as per award dated 31.08.2015 passed by the fifth respondent herein, in Na.Ka.No.207/2013, with arrears of wages and all other attendant benefits.

For Petitioner	:	No Appearance
For R-1 to R-4	:	Mr.Anand Gopalan
		For Mr.T.S.Gopalan and Co.,

COMMON ORDER

In W.P.(MD).No.13725 of 2017, the petitioner has challenged the order of the Labour Officer under the Conferment of Permanent
<https://hcservices.ecourts.gov.in/hcservices/>



Status to Workmen Act, 1981. The issue of Conferment of Permanent Status to Workmen Act was considered in the similar case and an order was passed in the case of Superintending Engineer, Erode Vs. Inspector of Labour and others reported in 2022 SCC Online Mad 1003. The relevant portion of the judgment is extracted hereunder:

"22. In view of the above, while we are of the view that the Labour Inspector has the power to issue appropriate order to grant permanency to the workmen, it cannot be by adjudicating the complicated questions of fact and law. A perusal of the Act of 1981 does not provide power in Labour Inspector of the nature given to the Industrial Adjudicator, i.e., the Industrial Tribunal or Labour Court, as complete framework with procedure for it has been given under the Act of 1947. Certain provisions of the Civil Procedure Code have been made applicable therein for proper adjudication which does not exist under the Act of 1981.

23. If the facts of this case are taken into consideration, we find that the Labour Inspector has recorded his finding in reference to the Act of 1970 while adjudicating the issue. Such powers have not been conferred on him, rather he can pass appropriate order after summary enquiry. The view expressed by the Single Judge of this court in the case of **Superintending Engineer, Vellore Electricity Distribution Circle, Vellore and others**, supra, is not in conflict with the view aforesaid, rather in paragraph 35 of the said judgment, the difference between the power of Labour Inspector and Labour Court or Industrial Tribunal under the Act of 1947 has been made. Paragraph (35) of judgment, referred supra, is extracted hereunder:

"35. Therefore, I am unable to accept the submission made on behalf of the Board that the exercise of the power by the Inspector of Labour in conferring permanent status after holding necessary enquiries contemplated under S. 5 read along with rule 6(4) should be construed as arrogating to himself the powers available to the other adjudicatory forums created under the provisions of the Industrial Disputes Act, 1947. It will have to be stated that while the exercise of powers vested with the Inspector under the provisions of the Act is summary in nature, the one under the provisions of the Industrial Disputes Act may be an elaborate one. Nevertheless the same does not mean that by exercising the power under the provisions of the Act the Inspector of Labour would be trespassing into



the adjudication process contemplated under the provisions of the Industrial Disputes Act. In this context, if the judgment of the Supreme Court in *Nirchiliya* case [1990 (2) L.L.N. 4] (vide supra) is applied, it can be safely held that where there is no prohibition under the provisions of either the Industrial Disputes Act or the Act, exercise of the power in the manner in which it can be done by the Inspector of Labour under the Act cannot be found fault with. It will have to be stated that such an exercise would be well within the statutory limitations provided under the Act. In fact, in the above-referred to judgment of the Hon'ble Supreme Court, the question for consideration was whether the workmen who initially raised an industrial dispute under the Industrial Disputes Act and who did not pursue it till its logical end when chose to move the authority under the then Madras Shops and Commercial Establishment Act, the Hon'ble Supreme Court held that in the absence of any prohibition under either of the enactments, such a course adopted by the workmen cannot be faulted. Therefore, applying the said ratio to the case on hand, it can be safely held that the concerned workmen here were placed in a better footing when they chose to straightaway move the Inspector of Labour under the Act, inasmuch as according to the workmen, having regard to the facts prevailing as on date, they were entitled for the conferment of permanent status as provided under the Act. If such a claim of the workmen was not factually maintainable, it was for the Board to have resisted the said claim with all available materials and could have convinced the Inspector of Labour as the claim ought not to have been countenanced. The Board having miserably failed to perform its duties in the manner expected of it, it cannot be now allowed to contend or complain against the powers exercised by the Inspector of Labour which was within the provisions of the Act. In this context, if the judgment of the Division Bench of this Court in *Metal Powder Company, Ltd.* case [1985 (2) L.L.N. 738] (vide supra), is applied, then also it can be safely held that the Inspector of Labour was well within his jurisdiction in holding the proceedings in the manner it was held and in passing the order by directing the petitioner/Board to confer permanent status on the workmen."



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 W.P.(MD) No.26223 of 2019 with batch cases 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.

2. The issue in the present case is also similar and in the light of the above said judgment, this Court is inclined to remit the case back to the Inspector of Labour. Thus, the order passed by the Labour Officer is set aside and the Inspector of Labour is directed to adjudicate the issue after giving sufficient opportunity to the parties and pass orders within a period of four months (4) from the date of receipt of a copy of this order. Accordingly, this

<https://hcservices.eport.gov.in/hcservices/> disposed of.



3. In the Writ Petition in W.P.(MD).No.14002 of 2018, the writ petitioner is seeking to implement the Labour Officer orders. Since the Writ Petition filed by the employer challenging the order of the Inspector of Labour is disposed of by setting aside the order of the Inspector of Labour and remitted back to the Inspector of Labour for reconsideration, therefore, the prayer in this writ petition to implement the order of the Inspector of Labour cannot be entertained and hence this writ petition is dismissed.

4. Therefore, the Writ Petition in W.P.(MD).No.14002 of 2018 is dismissed and the Writ Petition in W.P.(MD).No.13725 of 2017 is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/07/2022

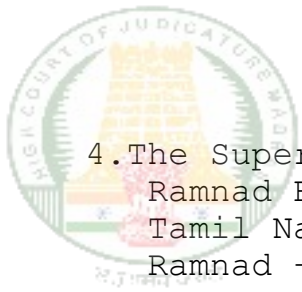
Sub Assistant Registrar(CS)

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 Inspector of Labour,
(Authority under the Tamil Nadu Industrial
Establishment (Conferment of Permanent
Status to Workmen) Act, 1981
Ramanathapuram.
- 2.The Tamil Nadu Corporation and Distribution Corporation Limited,
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4.The Superintending Engineer,
Ramnad Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
Ramnad - 623 503.

5.The Assistant Electrical Engineer,
Rameshwaram Electricity Division,
Tamil Nadu Generation and Distribution Corporation Limited,
Rameshwaram - 623 526.

+1cc to Mr.D.BALAMURUGAPANDI, Advocate, SR.No.17635 DATED:08.04.2022
W.P. (MD) .Nos.13725 of 2017 and 14002 of 2018
06.04.2022

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