



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 20-01-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.Nos.273 & 275 of 2020

W.A.No.273/2020 :

1.Selvaraju
2.M.Periyasamy
3.P.Saravanan
4.N.Gopalsamy
5.S.Senthil Raja
6.M.Senthil Kumar

...

Appellants

-VS-

1.The Superintending Engineer,
Namakkal Electricity Distribution Circle,
Tamilnadu Electricity Board,
Namakkal – 637 001.

2.The Inspector of Labour,
Office of the Inspector of Labour,
Authority under the Tamilnadu Industrial Establishment
(Conferment of Permanent Status to Workmen) Act,1981,
Namakkal.

3.R.Gopi
4.S.Paramasivam



5.S.Sakthivel
6.S.Rajesh Kumar

...

Respondents

(Respondents 3 to 6 are given up)

W.A.No.275/2020 :

1.R.R.Senthilkumar
2.N.Ramachandran
3.S.Boopathi
4.S.Soundararajan
5.G.Logesh
6.S.Magalingam
7.M.Srinivasan
8.S.Madeswaram
9.M.Srikanth
10.P.Senthilkumar
11.A.Sivagandhi
12.R.Selvakumar
13.S.Mohan
14.M.Saravanan
15.M.Manikandan

...

Appellants

-VS-

1.The Superintending Engineer,
Namakkal Electricity Distribution Circle,
Tamilnadu Electricity Board,
Namakkal – 637 001.

2.The Inspector of Labour,
Office of the Inspector of Labour,
Authority under the Tamilnadu Industrial Establishment
(Conferment of Permanent Status to Workmen) Act,1981,
Namakkal.

3.N.Kulandhaivel
4.P.Veerappan



5.S.Sivakumar
6.R.Murugesan
7.V.Muthukumar
8.N.Sadasivam
9.R.Kanakaraj
10.R.Venkatachalam
11.D.Anbalagan
12.N.Muthukumar
13.B.R.Ravi
14.N.Aanbalagan
15.T.Velmurugan
16.R.Gunasekaran
17.M.Boopathi
18.P.Murugan
19.M.Thiru Kumaran
20.K.Damodharan
21.S.Sekar
22.P.Thirumoorthy
23.A.Gunasekaran
24.K.Perumal

...

Respondents

(Respondents 3 to 24 are given up)

W.A.No.273 of 2020 is filed under under Clause 15 of the Letters Patent against the order, dated 24.10.2019, passed in W.P.No.30195 of 2016, on the file of this Court.

W.A.No.275 of 2020 is filed under under Clause 15 of the Letters Patent against the order, dated 24.10.2019, passed in W.P.No.30198 of 2016, on the file of this Court.

For Appellants in both appeals : Mr.K.Selvaraj

For Respondent 1 in both appeals : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.



WEB COPY



JUDGMENT

Learned counsel appearing for the appellants-workmen would submit that the issue involved in these appeals is squarely covered by a Division Bench decision of this Court in W.P.No.4061 of 2013 and Batch, dated 07.03.2022.

2. Paragraph 34 of the above said decision reads 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 workmen 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



WEB COPY

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."

3. In view of the above said decision of this Court, these Writ Appeals are also disposed of. However, we make it clear that the authority can go into the question as to whether the contract is sham and nominal and, if it is sham and nominal, he has no authority to decide the issue and the matter has got to be decided either before the Industrial Adjudicator or the authority under the Contract Labour (Regulation and Abolition) Act, 1970. The authority is expected to decide the issue as early as possible on day-to-day basis, without adjourning the matter beyond seven working days at any point of time, as the same is pending for more than 25 years. No costs.

Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking Order
dixit

(S.V.N.,J.) (J.S.N.P.,J.)
20-01-2023



WEB COPY



To

- 1.The Superintending Engineer,
Namakkal Electricity Distribution Circle,
Tamilnadu Electricity Board,
Namakkal – 637 001.

- 2.The Inspector of Labour,
Office of the Inspector of Labour,
Authority under the Tamilnadu Industrial Establishment
(Conferment of Permanent Status to Workmen) Act,1981,
Namakkal.



WEB COPY

7/7

W.A.Nos.273 & 275/2020



S.VAIDYANATHAN,J.
AND
J.SATHYA NARAYANA PRASAD,J.

dixit

W.A.Nos.273 & 275 OF 2020

20-01-2023