



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. Nos. 592, 595, 596, 598 & 599 of 2021

&

C.M.P. Nos. 2508, 2548, 2517, 2523 & 2535 of 2021

W.A. No. 592 of 2021

1. Tamil Nadu Electricity Generation & Distribution Corporation Ltd.,
represented by the Chairman,
No.144, Anna Salai, Chennai -2.
2. The Chief Engineer (Personnel),
Tamil Nadu Electricity Generation
& Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai -2.
3. The Superintending Engineer,
Tamil Nadu Electricity Generation &
Distribution Corporation Ltd.,
Cuddalore.

..Appellants



Vs.

WEB COPY 1. B.Vinayagamurthy

2. The Inspector of Labour,
Cuddalore.

..Respondents

Prayer in W.A. No. 592/2021: Writ Appeal as against the order dated
28.08.2019 passed in W.P. No. 78 of 2012.

For Appellants in

W.A. No.592/2021 :: Mr. A.P. Venkatesh Prasad for
M/s. T.S. Gopalan & Co.

For Respondents

in W.A.No.592/2021:: No appearance for R1
Mrs.V. Yamuna Devi,
Special Government Pleader for
R2

COMMON JUDGMENT

(Delivered by S. Vaidyanathan,J.)

The present appeals have been preferred by the Tamil Nadu Electricity Generation and Distribution Corporation Limited (TANGEDCO in short) challenging the order dated 28.08.2019 passed by the learned Single Judge in W.P. Nos. 78, 97, 156, 235 and 316 of 2012 directing the appellant Management to implement the order of the authority under the



Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

2. The private respondents, who were working as daily labourers and had been in employment under the erstwhile Tamil Nadu Electricity Board, which is now called Tamil Nadu Electricity Generation and Distribution Corporation, for more than 12 years, made representations requesting that they should be made permanent and should be absorbed in the Corporation and that their services should be regularised. Since the appellant Corporation did not accede to their request, the private respondents along with several others raised an industrial dispute before the Inspector of Labour, Cuddalore, seeking conferment of permanent status to them. The Inspector of Labour, Cuddalore, after taking into consideration all the aspects of the matter, by order dated 12.04.2007, directed that the private respondents should be made permanent and that orders will have to be passed conferring permanent status within a period of 30 days from the date of receipt of the order passed by him. The order passed by the Inspector of Labour was not challenged by the Corporation and it had



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become final. However, the order of the said authority was not implemented and therefore, the private respondents approached this Court by filing writ petitions seeking implementation of the order passed by the Inspector of Labour, Cuddalore and the learned Single Judge, by the order under challenge, allowed the writ petitions holding that the private respondents are entitled to be granted permanent status as per the order of the said authority. Hence, the present writ appeals, at the instance of the Corporation.

3. Eventhough the names of private respondents have been printed in the cause list, there is no representation on their behalf.

4. Heard the learned counsel for the appellant Corporation.

5. On a perusal of records, it is seen that the Inspector of Labour, Cuddalore, after analyzing the evidence on record, came to the conclusion that the employees concerned were direct labourers,i.e, they were to be construed as workers under the principle employer. Eventhough a plea was



taken by the Management that the employees were contract labourers, the authority disagreed with the contention of the Management and granted the relief sought for. The said order of the authority has not been challenged by the Management and it had become final. Since the order was not implemented, the employees/private respondents filed writ petitions, which came to be allowed as stated supra. When a finding of fact has been rendered and it has become final, the order of the authority has got to be implemented.

6. Learned counsel for the appellant Corporation has relied upon two judgments of this Court rendered in ***W.A. No. 1544 of 2022 dated 15.07.2022 and W.A. Nos. 2252 of 2021 etc dated 22.02.2022*** to drive home the point that even if an order had been passed by the Inspector of Labour under Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981, the benefit would be available to the employees concerned only for the period during which they were in the service of the appellant Corporation and not for the period during which they were not serving the appellant Corporation.



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7. In the light of the aforesaid judgments of the Division Bench of this Court, while confirming the order passed by the learned Single Judge, we make it very clear that in case of disengagement, after the order passed by the authority, it is open to the employees/private respondents to raise an industrial dispute challenging non-employment. However, when the finding rendered by the authority that the employees are direct labourers has become final, it cannot be re-agitated if an industrial dispute is raised by the employer. The employees would be entitled to monetary benefits upto the date of disengagement in terms of the orders of the Division Bench and in case, they are in service, they are entitled to other benefits that are applicable to the regular employees, who are working.

8. If the order of the authority under the 1981 Act is not complied with, it is open to the employees concerned to launch prosecution in terms of Section 6 of the said Act and the authority concerned shall sanction prosecution and the Criminal Court, when this issue is tried, shall proceed with the matter, on a day-today basis without adjourning the case beyond 15 working days at any point of time and bring the issue to a logical end.



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9. With the above observation, the writ appeals are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

nv

(S.V.N.J.) (K.R.S.J.)
09.08.2023

To

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