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W.P.No. 21311 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.21311 of 2012

1. Saleem
2. Mani
3. Dharmarasu
4. Aruldoss
5. Sathiyamoorthy

.... Petitioners

Vs

1. The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
Now TANGEDCO,
144, Anna Salai, Chennai – 2.

2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Pudukottai Electricity Distribution Circle,
Pudukottai.

3. Inspector of Labour,
Tiruchy.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to pass appropriate orders conferring permanent status in the services of the Board in the appropriate position befitting the nature of employment performed by the petitioners as ordered by the 3rd respondent in his proceeding made in Na.Ka.No.A/8116/2002 dated 05.02.2004 with all attendant benefits.

For Petitioners : Mr.Y.Ramanaiah



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For R1 & R2 : Ms.N.Nilani Claire
for M/s.T.S.Gopalan & Co

For R3 : Mr.T.M.Rajangam
Government Advocate

ORDER

This writ petition has been filed for direction directing the first respondent to absorb the petitioners as permanent employee of the first respondent.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners were engaged by the respondents as daily wage labourers to do the job of digging pits, erecting poles, drawing electrical lines and also for installing meters in connection with Board statutory duties. They completed 480 days of continuous work within a period of two years. Therefore, they claiming permanent status. The third respondent, by its letter dated 05.02.2004, passed an order that the petitioners are entitled to get permanent status.

4. The Hon'ble Division Bench of this Court, in a batch of Writ Petitions, laid law against insofar as the powers and jurisdiction of



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the Inspector of Labour. Accordingly, the Labour Inspector would not cause enquiry beyond the powers given under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 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 continuous service of 480 days in 24 calendar months and not for a prior period.

5. A perusal of counter affidavit filed by the respondents reveals that the petitioners were not continuously employed to seek employment as per Tamil Nadu Industrial Establishment (Conferment of



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Permanent Status to Workmen) Act 1981. In pursuant to the settlement under Section 12(3) of Industrial Dispute Act, dated 10.08.2007, a Committee was constituted to identify the contract labourers to be absorbed. However, the committee did not identify the petitioners and therefore, the petitioners have disintitiled themselves from claiming permanency in service. In fact, even after that, left out contract labourers were considered under B.P.No.9 dated 06.09.2007. Even in the absorption of contract labourers made in pursuant to the proceedings in B.P.No.9, dated 06.09.2007, the petitioners were not identified.

6. In view of the above, the prayer sought for in this writ petition cannot be considered. Thus, the writ petition is devoid of merits and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

04.09.2023

Internet: Yes
Index : Yes/No
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To

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G.K.ILANTHIRAIYAN. J.

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