



WEB COPY



W.P.No.27420 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.27420 of 2013

and

M.P.Nos.1 & 2 of 2013

Central Organisation of Tamil Nadu
Electricity Employees (COTEE),
No.27, Mosque Street,
Chepauk, Chennai 600005.

..... Petitioner

-Versus-

- 1.The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-2.
- 2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board /
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai 600002.
- 3.Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
Rep. by its Secretary,
144, Anna Salai, Chennai 600002.
- 4.Member (Accounts),
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 600002.

..... Respondents



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Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 2nd respondent in letter No.121919/G.582/2009 dated 30.07.2012 and to quash the same and consequently, direct the the respondents 1 to 3 to absorb the petitioner members whose names are given in the typed set of papers and who had been engaged by the Tamil Nadu Electricity as Contract Labourers.

For Petitioner : *Mr.V.Stalin*

For Respondents : *Mr.G.Anand Gopalan*

ORDER

This writ petition challenges a communication issued by the 2nd respondent stating that the request of the writ petitioner union for absorption of 4353 persons cannot be considered in its entirety.

2. The petitioner union had presented a representation seeking absorption of 4353 employees. According to it, all of them were directly employed by the Electricity Board for more than a period of 480 days in two calendar years and therefore, they are entitled to the benefit of regularisation and absorption. After verification of records, the Secretary, TANGEDCO, has passed the impugned order. According to the petitioner union, out of 4353 persons, only 1181 were



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directly engaged by the Board and the remaining 2671 were engaged through Contractors/K2 Chit Agreement. In the list of 4353, 38 persons had already been absorbed. Therefore, the benefit that was sought by the representation for 4353 was given to 1181 plus 38 persons. Challenging the said order, the present writ petition has been filed.

3. It was argued by Mr.V.Stalin, learned counsel appearing for the petitioner union that the order is unreasoned and the records produced by the union were not properly considered by the 2nd respondent.

4. Mr.G.Anand Gopalan, learned counsel appearing for the respondents on the other hand submitted that that the respondents got a report from the Superintending Engineer and all the records that were submitted by the petitioner union were verified and only thereafter, it was found that there were 1181 persons eligible for employment and that in the very same list was given by the union, 38 persons had already been absorbed.

5. I have considered the arguments on either side.

6. The issues raised by the petitioner union contains several disputed questions of fact which cannot be adjudicated by way of writ petition under Article 226 of the Constitution of India. All those issues could be raised before the authority under the Tamil Nadu Industrial Establishments (Conferment of



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Permanent Status to Workmen) Act, 1981, at the first instance. The said authority shall strictly comply with the provisions of the Act and shall not embark into any adjudicatory process. In case, it requires any adjudication, it shall not pass any further orders other than directing the workmen to approach the Industrial Adjudicator viz, Industrial Tribunal or Labour Court. This is as per the view of the Division Bench of this Court in **The Superintending Engineer Erode Electricity Distribution Circle, Tamil Nadu Electricity Board, Erode v. Inspector of Labour, Erode and 5 others** [W.P.No.4061 of 2013, etc., batch dated 07.03.2022].

With the above observation, this writ petition is dismissed. However, liberty is given to the petitioner union to approach the appropriate authority under the Act in case, they do not succeed before the authority under the Act to work out their rights before the Industrial Tribunal / Labour Court. No costs. Consequently, connected MPs are closed.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk



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- 2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board /
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai 600002.
- 3.The Secretary,
Tamil Nadu Generation and Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai 600002.
- 4.The Member (Accounts),
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V.LAKSHMINARAYANAN, J.

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