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W.A.No.1785 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2023

CORAM :

**THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ**

**W.A.No.1785 of 2022
and
C.M.P.No.13103 of 2022**

1.The Tamil Nadu Generation &
Distribution Company Ltd.,
Rep. by Managing Director,
Anna Salai,
Chennai - 600 002.

2.The Superintendent Engineer,
Purchase & Administrative
North Chennai Thermal Power Station,
Chennai - 600 120.

... Appellants

Vs.

1. A.Valarmani
2. A.Bose
3. N.Sadiyan
4. C.Irudayaraj
5. R.Elumalai
6. K.Chittarasu
7. E.Murugan
8. K.Sivakumar
9. G.Guna
10.B.Jagadeesan

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order
dated 10.02.2022 passed by the learned Judge in W.P.No.26204 of 2016



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For Appellants : Mr.Anand Gopalan
for Mr.T.S.Gopalan and Co.

For respondents : Mr.V.Prakash, Senior Counsel

J U D G M E N T

(Judgment of the Court was made by R. MAHADEVAN, J.)

This writ appeal is filed by the appellant / TANGEDCO as against the order dated 10.02.2022 passed by the learned Judge in W.P.No.26204 of 2016.

2.1. Brief facts which are necessitated for disposal of this writ appeal are that the respondents herein, who were earlier engaged on contract basis in North Chennai Thermal Power Station, were conferred with permanent status by the Deputy Chief Inspector of Factories, by an order dated 16.10.1998 in Petition No.2729 of 1998, whereby TANGEDCO was directed to confer permanent status to them, with effect from 01.04.1995, on which date, they have completed 480 days of continuous service in 24 calendar months. Even though the Management had prepared a list of contract labourers for absorption benefit, these respondents have been left out. In view of the same, they filed W.P.No.17941 of 1999 before this Court and this Court passed an order dated 23.09.2004, by which, the Management was directed to pass orders in favour of the respondents based on the Authority's order dated 16.10.1998. The writ appeal filed against these orders



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in W.A. No.275 of 2005 and a further appeal before the Supreme Court in SLA (Civil) Nos.14175-14176 of 2007, have ended in dismissal.

2.2. Consequently, the Management had issued Appointment Orders to the respondents as Helpers with effect from 24.12.2009. But the respondents preferred a writ petition in W.P.No.28536 of 2015 seeking regularization from 01.04.1995 in accordance with the order of the Authority dated 16.10.1998, in which this Court directed the Management to pass orders on their request by order dated 10.09.2015, based on which, the order dated 09.06.2016 has been passed by the appellant Management stating that the respondents herein are entitled for absorption only with effect from 24.12.2009 and not from 01.04.1995. Aggrieved by the same, the respondents herein filed a writ petition in W.P.No.26204 of 2016 before the writ Court.

3.The learned Judge, after taking note of the arguments advanced on either side and also considering the judgments passed by this Court as well as the Hon'ble Supreme Court, passed the order impugned in this appeal, setting aside the order passed by the Management and directing the Management to pass orders granting permanent status to each of the respondents herein, with effect from 01.04.1995 with a further direction to grant them all consequential service and monetary benefits, including continuity of service, within a period of four



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weeks from the date of receipt of a copy of the order. Hence, the present writ appeal by the Management.

4.The learned counsel for the appellants has submitted that the earlier orders of this Court in W.P.No.29017 of 2004 and W.A.No.275 of 2005, confirmed by the Hon'ble Supreme Court, merely provided that the respondents are entitled to permanent status. It is his further submission that disengagement of their services by the concerned Contractors in the year 1997 has neither been challenged nor been set aside till date and that, the employment given in the year 2009 is a fresh appointment in connection with whatsoever the earlier engagement by the Contractors between 1995 and 1997. The learned counsel also submitted that in similar circumstances, this Court in W.P.No.11417 of 2007 and W.A.No.856 of 2007, held that without the aspect of disengagement being challenged, no relief can be sought for. The earlier engagements between 1995 and 1997 were by contractors only and in any event, unless and until the disengagement in 1997 is set aside, the respondents will not be eligible for any relief.

5.In support of his contentions, the learned counsel for the appellants has relied upon the Division Bench judgments of this Court in ***Tamil Nadu Electricity Board vs. Inspector of Labour, reported in 2022 SCC OnLine***



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Mad 1003, Ravi vs. Tamil Nadu Electricity Generation & Distribution Corporation, in W.A.No.2252 of 2021 etc. batch dated 22.02.2022 and R.Palani vs. CMDA, TANGEDCO in W.A.No.1544 of 2022 dated 15.07.2022 and also the judgment of the Hon'ble Supreme Court ***in T.N.Civil Supplies Corpn. Workers' Union vs. T.N.Civil Supplies Corpn. Ltd. reported in (2001) 4 SCC 469*** and prayed this Court to quash the impugned order passed by the learned Judge.

6.On the other hand, the learned senior counsel for the respondents reiterated the submissions made by him in the Writ Proceedings and submitted that when the fact remained that W.P.No.17941 of 1999 was disposed of, directing the Management to pass orders in favour of the respondents based on the Authority's order dated 16.10.1998 and the further fact that the appeal preferred before the Supreme Court was summarily rejected, it is not at all correct on the part of the appellant Management to state that disengagement of services of the respondents has neither been challenged nor been set aside by the Court. It is the further submission of the learned senior counsel that the learned Judge has considered all the aspects in proper perspective and has arrived at the right conclusion that the respondents are entitled for permanency status with effect from 01.04.1995.



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7.We have heard the learned counsel on either side and also perused the materials available on record carefully and meticulously.

8.The present case rests on the point of disengagement of workers. In this connection, the primordial contention of the learned counsel for the appellants / Management is that the respondents herein have been disengaged in the year 1997 and the said disengagement of their services by the concerned Contractors in the year 1997 has neither been challenged nor been set aside till date and that, the employment given in the year 2009 is a fresh appointment in connection with whatsoever the earlier engagement by the Contractors between 1995 and 1997. The learned counsel has also relied upon various decisions of this Court and the Hon'ble Supreme Court. In this regard, it has to be noted that the Authorities under the Conferment of Permanent Status Act had passed orders on 16.10.1998 conferring permanent status to these respondents with effect from 01.04.1995, the date on which they had completed 480 days of continuous service in 24 calendar months and this order has been confirmed by this Court as well as the Hon'ble Supreme Court and the matter had reached its finality. The Management is relying upon the Board's Proceedings in B.P.No.17 dated 28.04.1999 in this connection. At this juncture, it is pertinent to point out that the Board's Proceedings in B.P.No.17 dated 28.04.1999 was passed before passing of the order of the High Court as well as the Hon'ble Supreme Court and the alleged



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disengagement in November 1997 was also prior to the Court orders. During the Writ Proceedings itself, it was put forth on behalf of the Management that the workmen had voluntarily stopped coming for work from the year 1997 and that, the term “disengaged” employed by them earlier in paragraph 6 of their original counter, was a mistake and the same has been corrected in their additional affidavit dated 04.01.2022. With regard to this point, the learned Judge has stated proper reasons and has given a finding that these workmen who were supported by an order of the Authority for permanency, were not issued with any order of termination or disengagement of services. It is also correctly observed by the learned Judge that such conferment of permanent status from a date succeeding the date ordered by the Authority and placing reliance on the Board Proceedings, cannot be sustained.

9.In the decision of the Hon’ble Supreme Court in ***T.N.Civil Supplies Corpn. Workers’ Union vs. T.N.Civil Supplies Corpn. Ltd., reported in (2001) 4 SCC 469***, the services of the workers therein were terminated, but it is not so in the present case. Further, the facts arising out of the orders passed by this Court, which have been relied upon by the learned counsel for the Management, are not similar to the facts of the case on hand.



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10. In view of the above stated circumstances, this Court has no hesitation to reject the contentions raised by the learned counsel for the appellants. The writ appeal deserves no merit and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
11.04.2023

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Speaking Order / Non-speaking order

Internet : Yes.

Index : Yes /No

To

1. The Managing Director, Tamil Nadu Generation & Distribution Company Ltd.,
Anna Salai,
Chennai - 600 002.

2. The Superintendent Engineer,
Purchase & Administrative
North Chennai Thermal Power Station,
Chennai - 600 120.



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