



W.P.No.13952 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.13952 of 2020
and W.M.P.No.17332 of 2020

- 1.P.Mohan
- 2.C.Vengatesan
- 3.K.Gopi
- 4.R.Selvam
- 5.B.Ganesan
- 6.L.Srinivasan
- 7.A.Sankar
- 8.R.Balan
- 9.S.Durai
- 10.R.Wilson
- 11.N.Ashokan
- 12.C.Murugesan
- 13.P.Veeraragavan
- 14.A.K.Ravi
- 15.C.Raja

... Petitioners

Vs.

- 1.Tamil Nadu Generation and Distribution Corporation,
Rep by its Chairman cum Managing Director,
N.P.K.K.R. Maligai,
Anna Salai, Chennai 600 002.
- 2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation,
N.P.K.K.R. Maligai,
Anna Salai, Chennai 600 002.



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3. The Chief Engineer,
North Madras Thermal Power Project,
North Chennai, Chennai 600 057.

4. The Superintending Engineer (North)
Tamil Nadu Generation and Distribution Corporation,
144, N.P.K.K.R. Maligai,
Anna Salai, Chennai 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned orders of appointment viz Proceedings No.(1) Ku.No. 007377/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 13.08.2018, (2) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (3) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (4) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (5) Ku.No.008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (6) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (7) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (8) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (9) Ku.No. 007381/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 18.08.2018 (10) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (11) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (12) Ku.No. 007377/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 13.08.2018 (13) Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018 (14) Ku.No.



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007377/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 13.08.2018 (15)

Ku.No. 008367/Ne.A/Ne.P.2/U I, Ko Kalapani / 2018 dated 28.08.2018, issued by the 4th respondent insofar as issuing appointment orders with effect from 13.08.2018 instead of from the date of their termination and quash the same and direct the respondents herein to reinstate the petitioners with effect from the date of their termination as per the orders of Honourable Supreme Court of India and the consequential regularization in their service in pursuant to the recommendation of Khalid Commission since the year 1998 with all consequential service benefits such as fixation of pay and all other attendant benefits including pensionary benefits.

For Petitioners : Mr.K.Krishnamoorthy

For Respondents : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co

ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned orders of appointment issued by the 4th respondent and quash the same and direct the respondents herein to reinstate the petitioners with effect from the date of their termination as per the orders of Honourable Supreme Court of India and the consequential regularization



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in their service with all consequential service benefits such as fixation of pay and all other attendant benefits including pensionary benefits.

2. Heard Mr.K.Krishnamoorthy, learned counsel for the petitioners and Mr.Anand Gopalan, learned Standing Counsel for the respondents.

3. The petitioners are the contractual labourers engaged in the respondent Board. By abiding the orders of this Court, they have been reinstated in the service. But the petitioners had taken advantage of the word 'reinstatement' and invited an interpretation from this Court by claiming that 'reinstatement' should be understood to the effect of getting the service benefits from the year 1998.

4. According to the learned Standing Counsel for the respondents that the petitioners had been restored to the position in which they have been working earlier and they have been regularised in the year 2018. Since the petitioners themselves have sought the relief of absorption, they cannot make use of the word 'reinstatement' in favour of their



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overreaching ambition.

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5. Initially, a Writ Petition has been filed by the Tamil Maanila Tholilargal Sangam, represented by the Secretary in W.P.Nos.4769 of 1989 and 3566 and 3796 of 1990 for absorption of contractual labourers. In the said Petition, it was contested by the petitioner by stating that the alleged contractors under whom they have been working is just sham and nominal and they are direct employees working in the first respondent Electricity Board and hence, the Board should be directed to absorb the employees and their services should be regularised. The prayer of the petitioner was allowed in the above Writ Petition. However, it was challenged by the Board by way of preferring W.A.Nos.1720, 1721 & 1722 of 1998 and the Writ Appeals also got dismissed.

6. However the Board preferred Special Leave Petition before the Hon'ble Supreme Court in which an order has been passed on 06.03.2018 by setting aside the orders of the Writ Court and the Writ Appellate Court. However, on some equitable grounds, a direction has been given to



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the Board to reinstate 27 workers including the petitioners into service. In compliance of the said order, proceedings have been issued on 13.08.2018, 18.08.2018 and 28.08.2018 by regularising the services of 27 workers. The regularisation was effected from the date of the order of appointment.

7. By citing the above orders, it is submitted by the learned Standing Counsel for the respondents that the petitioners cannot be given with any relief other than what they have sought before the Courts, by taking advantage of the word “reinstatement”. Even if there is any doubt in interpreting the orders of the Hon'ble Supreme Court, the petitioners have to workout their remedy only by way of seeking clarification or by way of filing a contempt by stating that the order of this Court is not obeyed in its true letter and spirit. In support of his contention, reliance was placed on the judgment of the Hon'ble Supreme Court held in the case of *The Manager, Reserve Bank of India, Bangalore Vs. S.Mani, reported in (2005) 5 SCC 100*. The excerpts of the above judgment in paragraph No.53 is extracted hereunder:



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"53. Furthermore, a direction for reinstatement for non-compliance of the provisions of [Section 25F](#) of the Industrial Disputes Act would restore to the workmen the same status which he held when terminated. The Respondents would, thus, continue to be Ticca Mazdoors, meaning thereby their names would continue in the second list. They had worked only from April, 1980 to December, 1982. They did not have any right to get work. The direction of continuity of service per se would not bring them within the purview of terms of settlement. Even in the case of a statutory corporation in *S.G. Kotturappa (supra)*, this Court observed:

"It is not a case where the Respondent has completed 240 days of service during the period of 12 months preceding such termination as contemplated under [Section 25-F](#) read with [Section 25-B](#) of the Industrial Disputes Act, 1947. The Badli workers, thus, did not acquire any legal right to continue in service. They were not even entitled to the protection under the [Industrial Disputes Act](#) nor the mandatory requirements of [Section 25-F](#) of the



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Industrial Disputes were required to be complied with before terminating his services, unless they complete 240 days service within a period of twelve months preceding the date of termination."

It was further held:

"The terms and conditions of employment of a Badli worker may have a statutory flavour but the same would not mean that it is not otherwise contractual. So long as a worker remains a Badli worker, he does not enjoy a status. His services are not protected by reason of any provisions of the statute. He does not hold a civil post. A dispute as regard purported wrongful termination of services can be raised only if such termination takes place in violation of the mandatory provisions of the statute governing the services. Services of a temporary employee or a badli worker can be terminated upon compliance of the contractual or statutory requirements." "



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8. In similar such occasion, if clarification about the word 'reinstatement' is understood in any other manner, the persons concerned have invoked the jurisdiction of the Hon'ble Supreme Court alone by way of filing a review petition. In this regard, it is relevant to cite the judgment of the Hon'ble Supreme Court made in the case of ***Regional Manager UPSRTC and another Vs. Kamal Kumar, reported in 2007 9 SCC 358***, which is extracted hereunder:

"1. The petitioners have sought for review of an earlier order passed by this Court whereby the special leave petition filed by the petitioners was dismissed. The special leave petition had been filed impugning an order of the High Court which had refused to interfere with the award of the Labour Court. The Labour Court's award had been passed accepting the claim of the respondent that his termination from service by the petitioner was illegal. The Labour Court found, as a fact, that the respondent was employed as a daily wager for several years by the petitioners. It also found that the petitioner had terminated the service of the respondent and that the termination of service was



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illegal. It accordingly directed reinstatement of the respondent with continuity of service but since the respondent was daily-wage employee, on the principle of "no work no pay" no back wages were given from the date of the termination of the respondent's services. It was, however, directed that the respondent would be entitled for "salary and all other benefits which he would have got while remaining in continuous service."

2. The review petition was filed on the assumption that this Court had directed the petitioner to absorb the respondent against a regular post. Therefore, in the review petition it has been stated that it was not possible to comply with the directions because there were only 101 class IV sanctioned posts and that there were already 161 employees working against the sanctioned posts.

3. We make it clear that we had not directed the respondent to be regularised nor to be appointed against any substantive vacancy. The Labour Court's award which we affirmed merely directed the status quo ante, as if the order of termination had not been passed. Therefore, the respondent continues to remain a daily wager.

4. However, since the Labour Court had granted



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relief on the basis of the continuous service of the respondent we think it appropriate to recall our earlier order and to dispose of the special leave petition by directing the petitioner:

(1) to reinstate the respondent as daily wager as directed by the Labour Court;

(2) if there is any scheme for regularisation of daily wager such as the respondent, the petitioners shall grant the respondent such relief taking into consideration his past service.

5.The Court has not directed any payment for the period subsequent to the award of the Labour Court in view of the assertion by the learned counsel appearing on behalf of the petitioner that the provisions of Section 17-B of the Industrial Disputes Act, 1947 have all along been complied with.

6. The review petition is disposed of accordingly."

9. It is submitted by the learned Standing Counsel for the respondents that the Union who had filed earlier litigations has rightly understood the spirit of the order of the Hon'ble Supreme Court. Hence the individuals cannot agitate before this Court by giving different



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interpretations and having different expectations.

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10. Strictly speaking, the petitioners cannot file any review petition as they are not a parties to the earlier proceedings taken before the Hon'ble Supreme Court. However, the petitioners can very well approach the Association for filing contempt petition, if in the opinion of the petitioners that the order of the Hon'ble Supreme Court has not been complied as how it has been ordered. Apparently, the order of the Hon'ble Supreme Court does not state anything about the consequential attendant benefits or about the backwages.

11. In such context of the matter, this Court cannot add up the relief or expand the scope of the relief granted by the Hon'ble Supreme Court. However the petitioners are at liberty to make representation to the respondent Board and on their representation, the Board shall pass appropriate orders by taking into consideration of its earlier order, if any, passed to the benefit of similarly placed individuals.



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12. In the result, this Writ Petition is disposed and the petitioners are at liberty to make a representation to the respondent Board within a period of two weeks from the date of receipt of a copy of this order. On their representation, the Board shall pass appropriate orders by taking into consideration of its earlier order, if any, passed to the benefit of similarly placed individuals, within a period of four weeks thereafter. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes

Internet : Yes/No

gsk

To

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation,
N.P.K.K.R. Maligai,
Anna Salai, Chennai 600 002.
- 2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation,
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R.N.MANJULA, J.

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