



W.P. No.20292/2019, etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
23.08.2023	08.09.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.20292, 20297, 20299, 20300, 20303 & 20304 OF 2019

R.Saravanan	.. Petitioner in WP 20292/2019
R.Rajininath	.. Petitioner in WP 20297/2019
Senthilvelan	.. Petitioner in WP 20299/2019
R.Alagiri	.. Petitioner in WP 20300/2019
A.Gopalakrishnan	.. Petitioner in WP 20303/2019
J.Mahesh	.. Petitioner in WP 20304/2019

- Vs -

1. The Tamil Nadu Electricity Generation
& Distribution Corporation Ltd.
Rep. 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.



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.. Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 3rd respondent in his Letter No.06412/SE/ADO/ADM-3/ADA.2/2019 dated 15.6.2019 and quash the same and thereby direct the respondents 1 to 3 to absorb the petitioner in the 1st respondent corporation as permanent employee as Field Assistant/Helper.

For Petitioners : Mr. N.Suresh

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

COMMON ORDER

Assailing the order of the 3rd respondent, in and by when the petitioners were denied of grant of permanent status, the present petitions have been filed.

2. It is the case of the petitioners that they are working as daily wage labourers with the respondents for more than 17 years. It is the further case of the petitioners that they have been continuously making representation to



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the respondents for making them permanent by absorbing them and regularising their services. Since no action was taken by the respondents, the petitioners, along with several others through the Association raised a dispute for permanent status before the Inspector of Labour and the said authority, after taking into consideration the fact that all the workmen have been in continuous work with the respondents for 480 days in 24 calendar months, vide order dated 30.08.2004, ordered that the said workmen should be made permanent. It is the case of the petitioners that their name finds a place in the list annexed with the order dated 30.08.2004.

3. It is the further case of the petitioner that the said order granting permanent status was not challenged by the respondents herein and, thereby, the said order became final. It is the further case of the petitioners that the order of the Inspector of Labour was not implemented, inspite of various representations submitted by the workmen. Therefore, writ petition in W.P. No.16841/2016, etc. was filed before this Court, in which, this Court, by order dated 29.4.2016, directed the respondents to take notice of the orders passed in the earlier writ petition in W.P. No.29949/2010, Batch and consider the



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petitioner's representation dated 15.9.2010 within a period of three months from the date of receipt of a copy of the said order.

4. It is the further case of the petitioners that since the said order was also not complied with, contempt petition in Cont. Petition No.2511/2016 and the said contempt petition was heard along with Cont. Ptn. Nos.2507 to 2515/2016 in which the respondents submitted that the order of the Inspector of Labour was challenged which ended in dismissal in W.P. No.15272/2005, which writ petition was heard along with W.A. Nos.1302/2003, Batch and vide order dated 24.10.2008, the said writ petitions filed by the respondents challenging the orders of the Inspector of Labour were dismissed as infructuous having regard to the 18 (1) settlement, in which petition, the names of the petitioners also figure as respondents.

5. It is the further case of the petitioners that computation petitions were filed before the Labour Court, Vellore, which petitions were also ordered in which the respondents herein deposited 25% of the amount and the writ petitions filed by the respondents challenging the order passed, initially stay



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was granted, which was subsequently vacated in which the workmen were permitted to withdraw the amount in deposit.

6. It is the further case of the petitioner that in the aforesaid scenario, vide order in the contempt petitions, taking note of the dismissal of the writ petitions filed by the respondents and also the computation petitions and the execution petitions and also the undertaking of *the respondents that if the petitioners approach the officials of the Electricity Board, they will comply with the direction which statement was taken on record* and the Court directed the petitioner to approach the respondents on or before 19.1.2017 along with a copy of the order and the Superintending Engineer was directed to comply with the order in letter and spirit.

7. It is the further case of the petitioners that when the petitioners submitted representation on 9.1.2017 along with the copy of this Court's order, the 3rd respondent not only failed to obey the Court's order, but had illegally rejected the petitioners request for permanency. It is the further case of the petitioner that contempt petitions were filed in which this Court issued



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notice but pending the same, the 3rd respondent had passed the impugned order on 5.10.2017 and at the time of hearing the contempt petition, the impugned order was placed before this Court and this Court, closed the contempt petition giving liberty to the petitioners to challenge the proceedings dated 5.10.2017 in which the stand taken by the respondents was that the petitioners had not reported for duty after the orders passed by the Inspector of Labour granting permanent status to the petitioners. Aggrieved by the said order, W.P. Nos. 11932 to 11937 of 2018 was filed in which this Court, by order dated 25.6.2018, held that the case of the petitioners is governed by the order passed by the Division Bench in W.A. No.1302/03 and is covered by the settlement.

8. It is the further case of the petitioners that pursuant to the aforesaid order, the petitioners gave representation dated 11.9.2018 to the 3rd respondent, which was rejected by the impugned order of the 3rd respondent dated 15.6.2019, which order is ex-facie contemptuous as it is against the orders of the Division Bench and against the settlement entered into. It is the further case of the petitioners that the reasons quoted in the impugned order



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is grossly illegal and only to subvert the orders passed by the Division Bench.

Aggrieved by the same, the present writ petitions have been filed.

9. Learned counsel appearing for the petitioners that the order passed by the Inspector of Labour granting permanent status to the workmen had attained finality and the names of the petitioners, which is annexed to the award passed by the Inspector of Labour clearly shows names of the petitioners as workmen, who are granted permanent status. When the said order has attained finality, it is incumbent on the part of the respondents to grant permanent status to the petitioners.

10. It is the further submission of the learned counsel that once the Division Bench had recorded the settlement entered into and dismissed the writ appeal in W.A. No.1302/03 as having become infructuous and that the terms of the settlement would govern the permanency of the petitioners and the names of the petitioners also being reflected in the settlement as persons, who are entitled for permanent status, the act of the respondents to nullify the order of the Division Bench is wholly contemptuous.



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11. It is the further submission of the learned counsel that based on the petitions filed in the computation proceedings initiated, which were held in favour of the petitioners and in the writ petitions against the said order, directions were issued for deposit of 25% of the amount and the stay, which was initially granted also having been vacated, the respondents are bound to implement the orders of the Inspector of Labour granting permanency.

12. It is the further submission of the learned counsel that the impugned order passed by the 3d respondent by by-passing the order of the Division Bench in W.A. No.1302/03 is wholly a mala fide attempt to dislodge the order passed by the Division Bench and is an act in contempt. Therefore, it is submitted that the order passed by the 3rd respondent deserves to be set aside and the petitioners should be granted permanent status.

13. Per contra, learned counsel appearing for the respondents submitted that pursuant to the order passed by the Inspector of Labour, the petitioners have not reported for duty. It is the further submission of the



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learned counsel that the representation filed by the petitioners were individually examined and they were found to have not worked continuously and had worked only for intermittent periods and they were not paid ex-gratia which shows that the petitioners were not engaged continuously. Therefore, the impugned order had come to be passed.

14. It is the further submission of the learned counsel that the Division Bench, which had upheld the settlement, has held that the claims of all contract labourers including those, who had obtained orders for permanency should be considered only in terms of the settlement and the eligible persons were absorbed in a phased manner. Since the petitioners did not fall under the said category, they were not absorbed. The order passed by the 3rd respondent is a well reasoned order and, therefore, the same does not require any interference.

15. Learned counsel for the respondents placed reliance on the following decisions :-



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- i) *Superintending Engineer, Erode Electricity Distribution Circle, Tamil Nadu Electricity Board – Vs – Inspector of Labour & Ors. (2022 SCC OnLine Mad 1003);*
- ii) *A. Ravi – Vs – The Tamil Nadu Electricity Generation & Distribution Corporation Ltd. & Ors. (W.A. Nos.2252/2021, etc. Batch – Dated 22.02.2022); and*
- iii) *R.Palani – Vs - The Tamil Nadu Electricity Generation & Distribution Corporation Ltd. & Ors. (W.A. Nos.1544/2022 - Dated 15.07.2022)*

16. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

17. This is a classic case of how ingenuity could trap a petitioner from realising the fruits of a long contested case and also the infectious nature of the orders, which this Court usually passes upon placing trust upon the submissions of the learned counsel for the respondents in a case of mere direction for mandamus forgetful of the fact that the eyes of the Lady of Justice is tied and, therefore, it is incumbent upon the Court to peruse all the papers before reposing trust on either side.



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18. A perusal of the materials available on record reveal that the petitioners claim for permanent status was upheld by the Inspector of Labour as early as on 30.08.2004. The order of the Inspector of Labour references the above petitioners, who are also to be given permanent status, as a finding has been rendered by the Labour Inspector that the petitioners had worked for a period of 480 days in a period of 24 calendar months. The aforesaid order as also the findings recorded therein have not been put to challenge.

19. Based on the said order, it is not in dispute that representations were given by the petitioners, which did not evoke any response, leading to the filing of W.P. No.16841/2016, in which a direction had been given to consider the petitioner's representation and pass orders. Even thereafter, no orders have come to be passed. The contempt petition filed in Cont. Ptn. No.2511/2016 taken along with Cont. Ptn. Nos.2507 to 2515/2016, in which the respondents herein have stated in their counter that the award was challenged by the respondent in W.P. No.15272/2005, which was taken along



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with W.A. No.1302/2003 and a common order had come to be passed by the Division Bench on 24.10.2008.

20. The whole crux of the case lingers on the order passed in W.A. No.1302/2003 and for better appreciation, the relevant portion of the said order is quoted hereunder :-

"VII. EXTENT OF VALIDITY OF BPs & SETTLEMENT

18. We affirm the direction of the learned judge insofar as it provides that the conferment of permanent status in the services of the Board shall be in the appropriate position befitting the nature of employment hitherto performed by the concerned workmen and the board shall issue appropriate orders relating to the concerned workmen in any existing category of employment or by virtue of the nature of jobs hitherto performed by them, they shall be fitted in any other post with the corresponding scale of wages/scales, benefits, etc., that may be prescribed by the board.

** * * * **

25. The claims of persons before the Labour Inspectors which have been allowed and who have come before this court seeking for issue a mandamus for enforcement will now be considered under the 18 (1) settlement. The writ petitions filed by the Electricity Board challenging the orders of the Labour Inspectors will now be



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dismissed as infructuous having regard to the 18 (1) settlement.”

21. From the above order of the Division Bench, it is implicitly clear that the workmen, who had obtained favourable orders with regard to grant of permanent status from the Inspector of Labour would stand covered by the 18 (1) Settlement and to that extent, the writ petitions filed by the respondents challenging the said order were dismissed. It is evident from the said order of the Division Bench that the petitioners herein are party respondents to the aforesaid case before the Division Bench and, therefore, necessarily, the said orders have to enure to their benefit.

22. It is further borne out by record that non-compliance of the directions with regard to grant of permanent status to the petitioners, once again, resulted in the filing writ petitions in W.P. No.16841/16, etc., for direction to implement the order of the 4th respondent, this Court, vide order dated 29.4.2016, had passed the following order :-

“3. The learned Standing Counsel appearing for respondents 1 to 3 submitted that it has to be verified whether



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any Appeal has been filed as against the order passed by the fourth respondent dated 30.08.2004.

4. The learned counsel for the petitioner pointed out that in identical matters in W.P.No.29949 of 2010 etc. batch, an order has been passed on 07.02.2011 and in the said batch of case, the following order was passed:-

6. A perusal of the averments made in the affidavits and the submissions made by the respective counsel, would disclose that the above said order passed by the fourth respondent has not been challenged and the same has become final. Since the orders as regards conferment of permanent status on the petitioners attained finality and act as inter party order, the first respondent Corporation bound to comply with the said order.

7. Learned Standing Counsel appearing for respondents 1 to 3 has drawn the attention of this Court to the proceedings of the Tamil Nadu Electricity Board in Per.B.P.(CHAIRMAN) No.9, Administrative Branch dated 09.01.2008, wherein a Committee has been constituted to examine the cases of Contract Labourers not covered by 12(3) Settlement dated 10.08.2007 for absorption and therefore, prayed that in terms of the said proceedings, appropriate orders may be passed.



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8. Since this Court has already taken the view that the order passed by the fourth respondent had become final and inter party order, the respondents 1 to 3 are bound to comply with the above said orders.

9. In the result, the Writ Petitions are disposed of by directing the respondents 1 to 3 to comply with the orders dated 09.03.2005 passed by the fourth respondent. The respondents are directed to comply with the above said orders with in a period of 12 weeks from the date of receipt of a copy of this order."

(Emphasis Supplied)

23. From the above order, what could be gathered is the fact that it was the stand of the learned counsel for the respondents that whether any appeal has been filed against the order of the Inspector of Labour dated 30.08.2004 has been filed or not is not known and it has to be ascertained. However, the learned Judge had went on to record the statement of the learned counsel for the petitioner by relying upon the order in W.P. No.29949/2010, etc. Batch dated 7.2.2011, wherein it has already been held that the order passed by the Inspector of Labour had become final and the respondents 1 to 3 are bound to comply with the said order and time of 12 weeks was granted to comply with the same.



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24. It is to be pointed out that against the said finding as well, the respondents have not preferred any appeal. But equally, it is to be pointed out that even as late as in the year 2016, when the aforesaid order was passed, there has been no compliance either of the order passed by the Inspector of Labour or that of the Division Bench or the order in W.P. No.29949/2010, etc. Batch. This clearly shows that the respondents have scant respect of the orders either passed by the statutory authority or the constitutional authority.

25. Be that as it may. Even in the contempt petition No.2551/2017, etc., filed by the petitioners with regard to the non-compliance of the orders passed in their respective writ petitions, the respondents have made the following submission, which is quoted hereunder :-

"4. In respect of other cases, where the writ petitions are dismissed, the learned counsel for the respondent fairly submits that if the petitioners approach the officials of the Electricity Board, they will comply with the direction. This statement is taken on record.



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5. *The contempt petitioners, who have to approach the respondent are the petitioners in Contempt Petition Nos.2507 of 2016- Mr.G.Gnanajothi, 2510 of 2016 - Mr.J.Mahesh and 2511 to 2515 of, - Mr.R.Saravanan, Mr.J.Senthilvelan, Mr.A.Gopalakrishnan, Mr.R.Rajininath and Mr.R.Alagiri.*

6. *In so far as the case of the contempt petitioners in Contempt Petition Nos.2508 of 2016 and 2509 of 2016, namely, Mr.R.Sasikumar and Mr.D.Sundaresan, are concerned, writ petitions are pending and order of stay is in force.*

7. *In the light of the above, the above mentioned petitioners shall approach the respondent/Superintendent Engineer on or before 19.01.2016 along with a copy of this order and the Superintending Engineer shall direct compliance of the order in letter and spirit."*

26. A proper reading of the order in the contempt reveals that there is a clear undertaking by the respondents that they will comply with the direction, meaning thereby, the direction given in the writ petition, which was based on the direction in W.P. No.29949/10, etc. Batch, which related to the affirmative direction issued to the respondents to implement the order passed by the Inspector of Labour. Therefore, the respondents not only accepted and agreed that the order passed by the Inspector of Labour had attained finality, but, in fact, had undertook that they will comply with the direction passed in



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the writ petition. Therefore, there could be no leverage for the respondents to go beyond the order of the Inspector of Labour, which has been confirmed in the earlier round of writ petitions.

27. However, what follows thereafter is nothing but travesty of justice meted out to the petitioners. Once again, inspite of the undertaking of the respondents, certain adverse orders were passed with regard to the granting of permanent status to the petitioners, which resulted in the petitioners filing W.P. Nos.11932 to 11937/2018 and this Court, by order dated 25.06.2018 passed the following order :-

"2.The learned Counsel appearing for the petitioners states that the Honourable Division Bench has passed order in Writ Appeal No.1302/2003 granting the benefit of permanent absorption in respect of contract labourers. The similar benefit to be extended to the writ petitioners also.

3.The learned Counsel appearing on behalf of the respondents made a submission that the permanent absorption made pursuant to the orders of the Honourable Division Bench is only with reference to the terms and conditions stipulated in 12(3) Settlement, dated 10.08.2007. Thus, the case of the writ petitioners would be considered in the light of the terms and conditions stipulated in 12(3).



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Settlement and the respondents have no objection in considering the case of the writ petitioners in the light of the judgment of the Hon'ble Division Bench as well as based on 12(3) Settlement and pass appropriate orders, within a period of twelve(12) weeks from the date of receipt of a copy of this order.

4. In view of the submissions made by the learned counsel for the petitioners the orders passed by the 3rd respondent in his Letter No.12625-1/SE/ADO/ADM3/ADS/ADA.2/2017 dated 05.10.2017 under the Permanent Status Act need not be given effect to. The writ petitioners are directed to submit a fresh representation and the relevant documents along with the orders passed by this Court."

(Emphasis Supplied)

28. Curiously, in the said writ petition, a stand was taken on behalf of the respondents that the orders of the Division Bench dated 10.08.2007 is only with reference to the conditions stipulated in 12 (3) settlement and the same would be considered in respect of the petitioners. However, the learned Judge, without adverting to the order of the Division Bench, relying upon the submission of the learned counsel, had gone on to direct the petitioners to submit a fresh representation for consideration of the respondents.



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29. From the above sequence, it transpires that a matter with regard to permanent status, which was passed in the year 2004, had been successfully dragged on by the respondents till 2018, by hook or crook and with a clear and oblique motive not to submit to the orders passed by this Court and this Court, has also extended its benevolence all the time to the respondents by merely directing the petitioners to submit a fresh representation for consideration of the respondents.

30. This Court is at a loss to understand from where 12 (3) settlement came into play, when it is the clear finding recorded by the Division Bench in W.A. No.1302/2003 that the enforcement will be under the 18 (1) settlement. The respondents have gone scot-free for more than a decade without complying with the orders of this Court and even if any order is passed, it is against the very spirit of its own undertaking before this Court and the issue has been dragged on for almost two decades.

31. To put it mildly, the order passed in W.P. Nos.11932 to 11937/2018 is an order *per incuriam* as the learned Judge had been misled on the



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materials and by the sheer intellect of the respondents, the order was obtained; rather, due diligence had not been exercised either by the counsel for the petitioner when the writ petitions in W.P. Nos.11932 to 11937/18 were disposed of by the learned single Judge.

32. After injecting the element of 12 (3) settlement into play through the aforesaid orders, the impugned order has come to be passed by the respondent, which smacks of *mala fide* and a calculated attempt to defeat the orders passed by the Division Bench as also the learned single Judge in the earlier round of litigations in W.P. Nos.16841/16, etc.

33. While the order of the Division Bench had categorically recorded the settlement as one entered u/s 18 (1), which has not been disturbed by the respondents by seeking any clarification, which order was passed on 24.10.08, however, curiously, the respondents have stated in W.P. Nos.11932 to 11937/18 that the settlement was entered into u/s 12 (3).



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34. It is to be pointed out that a settlement u/s 12 (1) is a settlement entered into on the basis of a conciliation proceedings, whereas a settlement u/s 18 (1) is entered into between the employer and the workmen. It is to be pointed out that nowhere the respondents, since 2004 till 2018, when W.P. Nos.11932 to 11937/18 were filed, the respondents have taken a stand that the settlement was one entered u/s 12 (3). Such being the case, this Court is unable to comprehend as to how the respondents have taken such a stand without placing any proper materials before this Court and how the same was allowed by the learned counsel for the petitioners. In effect, the eyes of this Court were tied by the respondents like a magician to obtain favourable orders to the effect that the petitioners may submit a representation which will be considered in the light of the settlement u/s 12 (3), when there was no such settlement entered into.

35. When an issue had long been settled, way back on 24.10.2008 by the Division Bench dismissing the petitions filed by the respondents herein against the grant of permanent status to the workmen and directing that their permanency would be guided by the 18 (1) settlement, the respondents, a



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public sector undertaking, in utmost good faith, ought to have implemented the said direction and even if there was some difficulty in implementing the aforesaid orders, the respondents ought to have approached the Division Bench. Even otherwise, at the time of the earlier round of litigation in the year 2016, when this Court had categorically held that the order passed by the Inspector of Labour ought to be implemented, the respondents had accepted the said order and did not file any appeal. But curiously, none of the orders passed by this Court had been complied with in letter and spirit though it had been the undertaking given by the respondents at the time of hearing of the contempt petitions.

36. One other aspect which requires to be pointed out is that the terms of settlement, which has been extracted in the order passed by the Division Bench dated 24.10.08, there is a clear clause in clause (1) which stipulates that the contract labourers already identified during 1998 by the committee consisting of officers of the Board not exceeding 6000 Nos. The names of the petitioners herein were identified and this fact is also evident from the list annexed to the order of the Inspector of Labour, which includes the name of



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the petitioners, meaning thereby, that the petitioners are also entitled to be granted permanent status. However, unmindful of the clause in the settlement, not only the Court was misled so as to show that the settlement was entered u/s 12 (3), receiving a fresh representation, the same was rejected vide the impugned order, which shows the ingenious manner in which the whole issue has been dealt with by the respondents. But for ingenious advice by its legal department, such a gross disrespect could not have been committed with the orders passed by this Court. However, less said the better, as it would be nothing but this Court castigating itself as nowadays, rendering substantive justice is becoming an equally arduous task with intellectuals trying to water down the directions issued by this Court.

37. An order of permanent status directed to be granted to the workmen way back on 30.08.2004, which has subsequently been confirmed by the Division Bench of this Court, without the order of the Division Bench being set aside in appeal by a higher forum, the said order cannot be read down by any other Court. However, the respondents have not abided by the undertaking given by them nor in compliance of the directions issued by the



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Division Bench, had granted permanent status to the petitioners, to which they are legally entitled by virtue of the orders, which they are armoured with.

38. Be that as it may. The impugned order passed by the respondents goes one step further to all the above acts. When there is a clear direction that the writ petitions challenging the conferment of permanent status are dismissed as infructuous in terms of the settlement entered u/s 18 (1), in effect, what flows from the same is that the petitioners herein, who were the respondents therein and whose names were in the annexure to the list in the order passed by the Inspector of Labour would have to be conferred permanent status. However, a curious interpretation is sought to be given to the same in the impugned order of rejection, which to show the cunningness of the respondents, is quoted hereunder :-

"6. The settlement dated 10.08.2007 was challenged before the Honble High Court. A Division Bench of the Honble High Court of Madras had not only upheld the settlement, but also held that claims of all contract labourers including even those who had obtained orders under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, should be considered only in terms of the settlement. Accordingly the claim of all eligible persons



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were considered and contract labourers were absorbed in a phased manner.

7. Thereafter, the Unions representing the contractor labourers made a plea that there were still some contract labourers who were not covered by the settlement. Therefore, the Board passed Board Proceeding No.9 dated 09.01.2008 constituting a committee to examine the cases of contract labourers not covered by 12 (3) settlement dated 10.08.2007 for absorption. This committee considered the cases of thousands of contract labourers over the years and has directed absorption of large number of contract labourers. The Board following this directed disengagement of the contract labour from 2008-09."

(Emphasis Supplied)

39. The order of the Division Bench is dated 24.10.2008, however, as per the above impugned order, a plea with regard to certain other contract labourers, who were not considered in the settlement was made by the Unions and a committee was constituted on 9.1.2008. If that be the case, such a reference to a committee constituted on 9.1.2008 does not find place in the decision of the Division Bench. From where, all of a sudden, a committee of 9.1.2008 had come into existence is not known. When the order of the Division Bench speaks only about 18 (1) settlement, which enured



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to the benefit of the petitioners herein, wherefrom 12 (3) settlement was dragged in after a decade in the 2018 litigation also does not elicit any answer, but could only be attributed to the ingenious thinking of the respondents.

40. Further, when the respondents in Cont. Ptn. Nos.2507 to 2515/16 had undertaken that they will comply with the directions issued by the Division Bench, which was recorded, more specifically in respect of the petitioners herein, relating to the conferment of permanent status, without complying with the same, sleeping over the matter for two more years on the representations filed by them and once again, due to the dereliction of the respondents, when W.P. Nos.11932 to 11937/18 were filed, the respondents had the temerity to mislead the Court and obtain orders as if the settlement was u/s 12 (3) and fresh representations may be filed by the petitioners which will be considered. When the respondents were already in possession of the representations of the petitioners, what was the necessity to receive a fresh representation is not known. May be, only to impress upon the Court that it was a 12 (3) settlement and to bring it on record, such an attempt was successfully made.



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41. After receiving the representations, the manner in which the same have been dealt with is nothing but an act of wilful contempt perpetrated by the respondents. When the order in W.P. No.16841/16, etc. was passed, there was a clear direction that the order of the Inspector of Labour had become final and that the petitioners have to be given the benefit of the said order. Even after filing of W.P. No.11932 to 11937/18, for the same *lis*, the order passed in the earlier petitions would stand merged with the later order and, therefore, for all purposes, the direction in W.P. Nos. 11932 to 11937/18 should be read in conjunction with the order passed in W.P. No.16841/16 and not in isolation. However, isolating the order in W.P. Nos.11932 to 11937/18, the respondents have literally sat over in appeal over the orders passed by the Division Bench as well as the learned single Judge of this Court, which necessarily warrants the invocation of an action for contempt, but judicial decorum makes this Court to desist from imploding much further on this.

42. One other aspect that is to be noted here is that the Inspector of Labour had given a finding that the petitioners have worked for 480 days in a



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period of 24 calendar months and that finding having allowed to attain finality, it does not lie in the mouth of the respondents to render a finding in the impugned order that the petitioners have not worked continuously, but intermittently and that had they been engaged regularly, they would have been identified by the Committee. Such a finding is wholly perverse, unreasonable, given the fact the Division Bench of this Court had dismissed the petitions filed by the respondents against the order granting permanent status. The respondents had no authority to sit in appeal over the order passed by the Division Bench and such an order is an direct affront on the orders passed by a constitutional court. Further the act is an abhorrent act, which no constitutional court would keep silent without interfering with the same.

43. When once the order of the Inspector of Labour dated 30.08.2004 stood merged with the order of the Division Bench dated 24.10.2008, which was approved and followed in W.P. No.16841/16, etc., the only course open to the respondents is to abide by the orders passed in favour of the petitioners and accordingly grant them permanent status and the present



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impugned order rejecting their claim for permanent status is wholly illegal and it definitely warrants interference at the hands of this Court.

44. The decision relied on by the learned counsel for the respondents would in no way advance the case of the respondents, as this is a clear case of violation of the orders passed by this Court, which has been bent to suit the needs of the respondents. Further, the facts in the decision relied on is in no way importable to the present case on hand and, therefore, the same does not require threadbare discussion.

45. In the result, the impugned order passed by the 3rd respondent is set aside and the writ petitions are allowed directing the respondents to accommodate the petitioners terms with the settlement u/s 18 (1) in the appropriate position befitting the nature of employment hitherto performed by them and they shall be paid corresponding scale of wages/scales, benefits in line with the directions issued by the Division Bench in W.A. No.1302/2003. Orders shall be passed within a period of two weeks from the date of receipt



W.P. No.20292/2019, etc.

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of a copy of this order. However, it is made clear that the petitioners would not be entitled for any backwages or continuity of service.

08.09.2023

Index : Yes / No

GLN



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W.P. No.20292/2019, etc.

To

1. The Chairman
Tamil Nadu Electricity Generation
& Distribution Corporation Ltd.
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.
Tiruvannamalai.



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W.P. No.20292/2019, etc.

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NOS.20292 OF 2019, ETC.**

**Pronounced on
08.09.2023**



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W.P. No.20292/2019, etc.