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W.P.No.21782 of 2019 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.21782, 27296, 27088 & 27896 of 2019, 16445, 16453, 16243, 19688 & 20003 of 2021 and 15213, 15217, 15219, 15220, 15226, 15964, 15966, 15968, 16127, 16129, 16132, 19474, 20594 & 29127 of 2022
and
WMP.Nos.20991, 26723, 26459 & 27471 of 2019, 17184, 17417, 17420, 20967 & 21267 of 2021 and 14390, 14394, 14397, 14398, 14401, 15285, 15286, 15288, 15506, 15509, 15511, 18769, 19714 & 28417 of 2022

W.P.No.16445 of 2021:

1. The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
Central office, Tamil Nadu Electricity Board,
Krishnangiri – 5.
2. The Chief Engineer (Personnel),
Tamil Nadu Electricity Generation and Distribution Corporation,
144, Anna Salai, Chennai – 600 002. ...Petitioners

Vs.

1. Inspector of Labour,
Authority under the Tamil Nadu Industrial Establishment
(Conferment of Permanent Status to workmen) Act, 1981,
Krishnagiri.
2. K.Kalimurugan
3. R.Samaraj
4. G.Mathesan



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5. T.Suresh
6. M.Madhesh
7. K.Chandrasekar
8. G.Kaliappan
9. R.Santhosh
10. V.Ramesh Babu
11. V.Chandra Rao
12. M.Kaveriappa
13. R.Muruges
14. N.Manju
15. V.Manju
16. V.Hariprasath
17. C.Mahendran
18. P.Shanmugham
19. G.Krishnamurthy
20. S.Kandaraj
21. M.Murali
22. K.Kariellappa
23. N.Anilkumar
24. N. Sudhakar
25. S.Suresh
26. S.Venkatesh
27. P.Raji
28. S.Ramesh
29. K.Anantha
30. M.Madhesh
31. B.Madhusudanan
32. K.Muniraj
33. M.Subramani
34. M.Chandrasekar
35. P.Francis Souriappan
36. M.Krishnan
37. K.Arunachalam
38. M.Ramakrishnan
39. B.Krishnan
40. K.Periyavan
41. A.Ganesan



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42. C.Muniappan
43. G.Subramani
44. K.Anbu
45. M.Jayakumar
46. E. Arunkumar
47. K.Sivagnanam
48. G.Kumar
49. S.Murugesan
50. E.Sivakumar
51. P.Chidambaram
52. P.Chandrasekar
53. P.Sivaprakasam
54. S.Manickam
55. V.Thiruppathi
56. P.Govindaraj
57. V.Chinnasamy
58. M.Narayanasamy
59. M.Murugavel
60. C.Madhaiyan

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent in proceedings Na.Ka.No.2261/2017 and quash its order dated 22.10.2018.

In W.P.No.16445 of 2021:

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.

For Respondents : Mr.S.John J.Raja Singh, AGP, for R 1
: M/s.V.Srimathi, for R 3, 4, 18 & 21
: No Appearance, for R 2, 5, 6 to 8, 10 to 17,
19 to 20, 22 to 46, 48 to 60
: Notice Not Ready, for R 9 & 47



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COMMON ORDER

Though the matters were listed separately, as the issue arises in all these Writ petitions are similar in nature, they are grouped together and disposed of by this common order.

2. When the matters were taken up for hearing, the learned counsel appearing for the respective petitioners submitted that, the issue involved in these Writ petitions are no longer *res integra* and the similar issue was dealt with by the Hon'ble Division bench of this Court in W.P.No.4061 of 2013 etc., batch of cases, wherein the Division Bench of this Court by order dated 07.03.2022, set aside the orders passed by the Labour Inspector and remanded the matter to the Labour Inspector.

3. Learned counsel appearing for the respective workmen submitted that the Hon'ble Division Bench of this Court had only remanded the matter to the Labour Inspector to decide the issue and, therefore, submitted that similar order may be passed in the present petitions as well.



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4. Heard learned on either side and perused the material documents placed on record.

5. A perusal of the order of the Hon'ble Division Bench of this Court dated 07.03.2022 made in W.P.No.4061 of 2013 etc., batch of cases, it is evident that, the Division Bench already arrived a conclusion that, the Labour Inspectors have no power to decide the issue in respect of the contract labourers who are working under the Contractors and they are governed by the various Labour legislations. For better appreciation, the relevant paragraphs are extracted hereunder:-

“34. We have considered the submission aforesaid and find that the order passed by the Labour Inspector needs to be interfered with remand of the case. It is, however, to be made clear that the Labour Inspector would not cause enquiry beyond the powers given under the Act of 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



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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 workman 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. The direction aforesaid is not driven by the settlement for the reason that the workmen herein are those who were not extended the benefit of settlement and, therefore, sought claims by maintaining claim separately. However, it would not preclude both the sides from entering into settlement, if they so choose, during the period of summary enquiry by the Labour Inspector. The issue as to whether the respondents fall within the definition of "workman" is however decided against the petitioner Corporation, as not only a settlement was entered, but adjudication about claim to seek permanency has been decided earlier in reference to similarly placed.

35. With the aforesaid directions, all the writ petitions are disposed of by causing interference with the order passed by the Labour Inspector. The orders passed by the Labour Inspector are set aside with remand of the case to the Labour Inspector for passing orders afresh, after summary enquiry."

6. The present cases in hand, being similar in nature, this Court is inclined to set aside the impugned orders and remand the matter to the Inspector of Labour, to decide the issue strictly in terms of the order passed by the Hon'ble Division Bench of this Court.



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WEB COPY 7. Accordingly, these Writ Petitions stand disposed of with the aforesaid directions. No costs. Consequently, the connected Miscellaneous petitions are closed.

22.09.2023

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

Inspector of Labour,
Authority under the Tamil Nadu Industrial Establishment
(Conferment of Permanent Status to workmen) Act, 1981,
Krishnagiri.

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M.DHANDAPANI., J.

skt

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