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W.A.No.2055/2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 27-02-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A.No.2055 of 2021

G.Gnanajothi

...

Appellant

-VS-

1.The Superintending Engineer,
Tiruvannamalai Electricity Distribution Circle,
Vengikkal,
Tiruvannamalai.

2.The Government of Tamil Nadu,
by its Secretary,
Energy Department,
Chennai – 9.

3.The Government of Tamilnadu,
rep. by its Secrerary to Labour and
Employemnt Department,
Chennai-9.

4.The Inspector of Labour,
Tiruvannamalai.

5.V.Sekar
6.B.Dhamodaran
7.S.Udhayakumar



- 8.K.Ganapathi
- 9.P.Kamaraj
- 10.K.Karunanithy
- 11.R.Krishnamoorthy
- 12.P.Venkatesan
- 13.K.Palani
- 14.R.Devendiran
- 15.R.Kumar
- 16.G.Rayar
- 17.K.Selvam
- 18.P.Sudhakar
- 19.R.Kuppusamy
- 20.A.Durai
- 21.K.Murugadoss
- 22.K.Rajendran
- 23.R.Gunasekaran
- 24.A.Elayyan
- 25.K.Arumugam
- 26.A.Mani
- 27.M.Pachaiyappan
- 28.K.Suresh
- 29.M.Vinoth
- 30.M.Suresh
- 31.S.Jagannathan
- 32.K.Tholkappiyan
- 33.R.Pachaiyappan
- 34.R.Subramani
- 35.R.Venkatesan
- 36.A.Thirunavukkarasu
- 37.G.Selvaraj
- 38.G.Perumal
- 39.P.Elumalai
- 40.A.Sathyamoorthi
- 41.S.Manoharan
- 42.E.Baskaran
- 43.S.Sakthivel
- 44.A.Sankar
- 45.S.Ekambaram
- 46.C.Sivakumar



- 47.A.Venkatesan
- 48.D.Anandhan
- 49.E.Venkatachalam
- 50.C.Elumalai
- 51.K.Govindasamy
- 52.M.Arumugam
- 53.S.Vijayakumar
- 54.K.Senthil Murugan
- 55.S.Sivakumar
- 56.V.Manikandan
- 57.G.Sankar
- 58.V.Krishnan
- 59.K.Elumalai
- 60.R.Selvakumar
- 61.R.Murugan
- 62.V.Arumaithambi
- 63.C.Sekar
- 64.G.Kannan
- 65.K.Sakthi
- 66.P.Gunasekaran
- 67.S.Murugan
- 68.V.Ravi
- 69.A.Venkatesan
- 70.M.Ramanaryanan
- 71.P.Dharmalingam
- 72.V.Sivakumar
- 73.I.Ramamoorthy
- 74.G.Manohar
- 75.N.Selvaraj
- 76.T.Vijayakumar
- 77.B.Ponnumudi
- 78.A.Raja
- 79.V.Shanmugam
- 80.R.Rajaram

...

Respondents

(Respondent 5 to 80 are given up)



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Appeal is filed under under Clause 15 of the Letters Patent against the order, dated 29.01.2019, passed in W.P.No.35849 of 2003, on the file of this Court.

For Appellant : Mr.N.Suresh

For Respondent 1 : Mr.Anand,
for M/s.T.S.Gopalan & Co.

For Respondents 2-4 : Mrs.E.Ranganayaki,
Addl.Govt.Pleader.

JUDGMENT

This appeal has been preferred against the order, dated 29.01.2019, passed in W.P.No.35849 of 2003, by a learned single Judge.

2. A joint submission was made by the workmen and the management before the learned single Judge that the issue raised in the writ petition was already decided by a Division Bench of this Court in W.A.No.1302 of 2003 on 24.10.2008. The learned single Judge has quoted Paragraph No.25 of the said decision of the Division Bench and the relevant paragraph of the order in the Writ Petition is extracted as under :

"The respective counsels appearing on behalf of the writ petitioner as well as the respondents, jointly made a submission that the issues raised in the present writ petition had already been decided by the Hon'ble Division Bench in Writ Appeal No.1302 of 2003 dated



24.10.2008 (*The Superintending Engineer and Another V. The Inspector of Labour and Another*), the relevant portion of which reads as follows :

25. We therefore, direct that persons who ought to have been taken in employment against vacancies that were directed to be filled by the Supreme Court pursuant to Khalid Commission's report shall first be filled up before other vacancies are undertaken to be filled up. The writ petitions challenging the 18 (1) settlement will stand dismissed, except to the extent mentioned in paras 23 and 24 above. Age relaxation, wherever necessary to accommodate them shall be given. Similarly, the writ petitions challenging the board proceedings 36 and 37 of the Administrative Branch dated 29.10.2005 will also stand dismissed. 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 dismissed as infructuous having regard to the 18 (1) settlement. The appeals filed by the board against the decision of the learned single will also stand dismissed. The claims of the workmen in W.P.No. 1033 of 2006 and the connected batch will not stand affected by the decision of this court and the Labour Court will decide on their claims in I.D.No. 106 of 2003 in the light of what we have observed, in so far as they are relevant and independently of the same on factual issues whether they have been directly employed by the Electricity Board or not. The Writ Petitions and Writ Appeals are disposed of accordingly. No Costs."



3. The grievance of the appellant is that the employer approached this Court, challenging the order passed by the Inspector of Labour, and that the order of the learned single Judge to the effect that the order passed by the Inspector of Labour, granting permanent status, cannot be insisted upon, is not sustainable.

4. We are not inclined to accept the said contention of the appellant, as the order of the Division Bench, extracted supra, and the observation in paragraph 3 of the order in the Writ Petition have to be read as a whole. The authority had granted permanent status, which was questioned by the employer, and the employees succeeded before the learned single Judge and the matter was taken in appeal before the Division Bench in W.A.No.1302 of 2003, as stated above. During the pendency of the said appeal, a Settlement under Section 18 of the Industrial Disputes Act, 1947, was entered into and, thereafter, Board Proceedings were also issued by the Electricity Board. The employees agreed to go in terms of the Settlement and the Board Proceedings, that were issued by the Electricity Board. Now, they cannot turn around to contend that the order of the authority has got to be implemented. They cannot ride two horses. Once they accepted the settlement, they have to go by the settlement and are bound by the terms of it. Any settlement, contrary to the statutory provision, cannot be enforced and also cannot be a valid one. In this case, the authority has exercised the power in terms of the powers conferred on it under the Tamil Nadu Industrial Establishments (Conferment of



Permanent Status to Workmen) Act,1981. Thereafter, the employees approached the employer and entered into a settlement, giving up certain benefits that they would have been entitled to. Now, they cannot, as stated supra, take a "U" turn and submit that they have to be given the benefit of the order of the authority. Even otherwise, there was a concession made by the employer before the learned single Judge. Therefore, in the Writ Appeal, we cannot take a different view from that of the one taken by the learned single Judge. A reading of Paragraph 3 of the order of the learned single Judge, which has to be read as a whole and not in isolation, would mean that the order of the authority was modified into a settlement and the employees in this case are bound only by the settlement and not otherwise. (emphasis supplied)

5. Writ Appeal is, accordingly, dismissed. No costs.

Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking Order
dixit

(S.V.N.,J.) (R.K.M.,J.)
27-02-2023



To

- 1.The Superintending Engineer,
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Vengikkal,
Tiruvannamalai.
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S.VAIDYANATHAN,J.



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