



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.19745, 19873, 19874, 19875, 21174, 21384, 21560, 21570, 21627, 21748,
21749, 21750, 21800, 21801, 22034, 22035, 22170, 22174, 22567, 23741, 24563, 24599
of 2017 & 30773 of 2018
and W.M.P.Nos.38039, 38036, 38037, 38040, 22640, 22537, 22351, 21470, 22560,
21469, 21468, 24961, 24960, 21330, 22072, 25956, 25957, 23692, 25919, 25920,
22759, 22757, 22761, 22812, 22811, 23202, 23084, 23083, 23206 of 2017 & 10062 &
1991 of 2018

W.P.No.19745 of 2017

1.The Principal

RGMTTC BSNL,
Meenambakkam,
Chennai-600027.

2.The Chairman & Managing Director,

BSNL, Sanchar Bhawan,
New Delhi – 110 001.

3.The Chief General Manager,

BSNL Tamilnadu Circle,
Anna Salai,
Chennai-600 002.

. . Petitioners

Vs.

1.The Circle Secretary,

BSNL Employees Union,
No.3/71, 4th Street, Raghav Nagar,
Madipakkam,
Chennai-600 091.

2. The Presiding Officer,

The Central Government Industrial Tribunal -Cum-Labour Court,
Chennai.

. . Respondents



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Prayer in W.P.No.19745 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate writ or order or direction in the nature of Writ calling for the entire records of the 2nd respondent in I.D.No.26 of 2003 dated 22/03/2017 and quash the same.

For petitioner : Mr.Dr.D.Simon
(in W.P.Nos. 19745, 21174, 21384,
21560, 21570, 21627, 21800, 21801,
22034, 22035, 22170, 22174, 23741,
24563, 24599 of 2017)

: Mr.S.Renuka Shankar,
in W.P.No.19873 to 19875, 21748 to 21750 of 2017

: Mr.B.Mohan in W.P.No.22567 of 2017

: Mr.K.M.Ramesh, Senior Counsel
for M/s.S.Apunu in W.P.No.30773 of 2018

For Respondents : Mr.K.M.Ramesh, Senior Counsel
for M/s.S.Apunu for R1 in all petitions.

: Mr.Dr.D.Simon for R1 to R3 in W.P.No.30773 of 2018

COMMON ORDER

Though these Writ Petitions have been listed as different items in the Cause list, since the issue involved in all Writ Petitions being one and the same, these Writ Petitions are grouped together and disposed of by way of this common order.



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2. Challenging the impugned award of the 2nd Respondent/Labour Court in I.D.Nos. 23, 26, 27, 41, 42, 50, 55, 57, 293, 294, 300, 301, 302, 314, 318, 320, 322, 351, 385, 386 & 388 of 2004, the above Writ Petitions have been filed.

3. For the sake of convenience, the petitioners in respective Writ Petitions will be referred to as “Petitioner Management” and the 1st Respondent in respective Writ Petitions will be referred to as “Respondent Union”.

4. The petitioner herein is Telecom department and the 1st respondent herein is the registered Trade Union. It is the case of the petitioner that the workmen of the 1st respondent union who were engaged in the petitioner management as contractual labourers for carrying out works of housekeeping, cable joining and line work, operation and maintenance of electro-mechanical services etc, have raised an Industrial Dispute by filing claim petitions, before the 2nd respondent/Labour Court seeking permanency under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to workmen) Act, 1981, wherein, the Labour Court had passed the



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impugned Award, holding that the workmen have completed 480 days of continuous employment in a period of two calendar years in the petitioner management resultantly, the petitioner was directed to regularize their services. Challenging the same, the management is before this Court by way of these Writ Petitions.

5. Learned counsel for the management submits that admittedly, the 1st respondent/workmen in respective Writ Petitions were contractual labourers of the petitioner management. Though, the workmen herein claim to have been engaged with the petitioner management as casual labourers thereupon claiming regularization of their services on par with the regular employees of the management, however, they have not placed any documentary evidence before the Labour Court to show that they have rendered continuous service of 480 days in a period of 24 calendar months. Since, the workmen being contractual labourers under the management, they have no *locus standii* to raise an industrial dispute for regularization of their services. Hence, the impugned award of the Labour Court requires interference. Accordingly, he prays for allowing these Writ Petitions.



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6. Per Contra, learned Senior Counsel for the respondent union submitted that admittedly, 37 workmen were engaged as contract labourers during the years 1985 to 1988 in the Telecom Department and the Award was passed in favour of all workmen, out of which, 5 of them died, and 6 of them are not interested to continue their service. In the year 2021, 9 workmen rendered their service in the Telecom Department and continued to render service in the BSNL Department and 17 workmen who stopped their services due to abolition of telegraph unit, were employed in different categories even after formation of the BSNL Department. During the pendency of litigation, one of the workmen namely P.Ramamoorthy retired from service in the year 2016 after attaining superannuation.

7. This Court heard the learned counsel for the petitioner as well as the learned senior counsel for the 1st respondent union and perused the materials available on record.

8. Admittedly, the workmen of the respondent union were engaged in the petitioner management as casual labourers. It is the case of the



petitioner that the workmen cannot claim permanency as they were only working on contract basis and have not completed continuous service of 480 days in a period of 24 calendar months which is disputed by the workmen.

9. However, in view of the stand taken by the learned senior counsel for the workmen that out of the 37 workmen who were engaged as contract labourers during the years 1985 to 1988 in the Telecom Department in whose favour award was passed, 5 of them having died, and 6 of them not being interested to continue their service and 9 workmen were continued in service in BSNL Department and 17 workmen were employed in different categories due to abolition of telegraph unit, and one of the workmen namely P.Ramamoorthy retired from service in the year 2016 after attaining superannuation, the continuance in service of the workmen for long number of years from 1985 to 1988, this Court is of the view that the workmen who were continuing in the services of BSNL till the year 2021, are entitled for regularization of services irrespective of the Award passed by the Labour Court due to passage of long period of time. Therefore, this Court, without advertent to the award, directs the petitioner management to regularise the services of such of the workmen, who are still continuing in service till the



year 2021 within a period of eight weeks from the date of receipt of a copy of this order. Insofar as the workman who retired from service in the year 2016 after attaining superannuation, viz., P.Ramamoorthy, the said workman is entitled for terminal benefits and the petitioner Management is directed to settle the entire terminal benefits of the said workman within the aforesaid period.

10. Accordingly, these Writ Petitions are disposed of with the aforesaid directions. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

07.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No

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M.DHANDAPANI, J.

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