



W.P(MD).No.10889 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated :20.04.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.10889 of 2019

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... Petitioner

Vs.

- 1.The Chairman
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Distribution and Operation,
No.144, Anna Salai,
Chennai.
- 2.The Chief Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
Distribution and Operation,
No.144, Anna Salai,
Chennai.
- 3.The Superintendent of Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Distribution and Operation,
Vallam Road,
Thanjavur District.



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4.The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
Operation and Maintenance,
Vallam Road, Thanjavur District.

5.The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
Operation and Maintenance,
Kumbakonam Kottam,
Rajan Thottam,
Thiruvaidaimaruthur Road, Kumbakonam Taluk
Thanjavur District.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondent herein to consider the petitioner's representation dated 19.03.2018 and thereby direct the respondents to regularize his service with all benefits as per Section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981.

For Petitioner : Mr.R.Senthil Kumar

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



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ORDER

This writ petition has been filed for writ of mandamus directing the respondents herein to consider the petitioner's representation dated 19.03.2018 and thereby, direct the respondents to regularize his service with all benefits as per Section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981.

2. The contention of the petitioner is that he was engaged by the respondents in erection work of the electric poles and also issued certificate. Thereafter, the petitioner has made several representations to the 5th respondent to regularise his service. Despite various representations, the 5th respondent has not taken steps to regularise the service of the petitioner. But, the 5th respondent has regularised the petitioner's juniors. Hence, by citing the same, the petitioner repeatedly approached the respondents to regularise his service. But the respondents have not consider the same. Therefore, the petitioner had finally submitted a representation to the respondents on 19.03.2018 to regularise his service as per Section 3 (1) of the Tamilnadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act 1981. It is stated that “a



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workman who has completed 480 days of continuous service in a period of 24 calendar months, would become automatically a permanent employee under employer, even if, an employer has not conferred him with the permanent status or even if no direction is issued by the competent authority under the Act 1981 or the Rules framed". In various judgments rendered by the Hon'ble Supreme Court, Hon'ble Principal Bench and this Court, it is held that a workman, who has completed 480 days of continuous service in a period of 24 calendar months would become automatically an employee under the employer. Since the petitioner is working under the 5th respondent from the year 2000 onwards and the same has been confirmed by the certificate issued by the Board, the petitioner has fulfilled all the conditions to regularise his service with all benefits. The petitioner is relying on the certificate issued by Executive Engineer. The next evidence that is relied by the petitioner is K2 agreement as well as the chit agreement, issued by one Stalin. But the respondents have not considered the petitioner's grievance till date for the reasons best known to them. Hence, the petitioner has filed this writ petition before this Court.

3. This Court has considered the rival submissions made by the Learned Counsel appearing on either side and perused the materials available on record.



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4.It is seen that the petitioner worked as a contract labour under one Stalin who has participated in the erection work of the electric poles. Erection of poles is not a continuous process. After the erection is over, the contract would come to an end. If any fresh erection of poles work ought to be carried then a fresh contract would be issued to the successful bidder for another erection work. Therefore, there is no employee and employer relationship between the petitioner and the respondent. Moreover, the petitioner claims to have worked in the year 2001, but, he has not participated in the identification parade, which was conducted in the year 2008. As far as the agreement entered on 03.08.2010, it is not stated from which period to which period, the work was carried out by the petitioner. From the above evidence, it is seen that the petitioner was not continuously engaged as a contract labour. The execution work contract can at the most be termed as service contract or works contract. It is not an employment and there is no employee and employer relationship. Hence, the petitioner is not entitled to regularise the service.



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5. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

20.04.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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S.SRIMATHY, J.

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