



Writ Petition No.21324 of 2011 etc., Batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 18.01.2024

ORDERS PRONOUNCED ON : 02.02.2024

CORAM :

**THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

Writ Petition Nos.21324, 21876, 28105, 28896 of 2011
and 30279, 30284, 30290, 30983, 30984, 30987, 30995
30998, 31003, 31055 of 2019 and
W.M.P.Nos.30259, 30262, 30266, 31092, 31078,
31085, 31096, 31101, 31106 and 31166 of 2019

Writ Petition No.21324 of 2011:

Tamil Nadu Electricity Board
Accounts and Executive Staff Union
Rep.by its Divisional Secretary
Registration No.2472
Cuddalore Electricity Distribution Circle
12, Bangaruammal Nagar
Padarikuppam Post
Cuddalore.

.. Petitioner

Versus

1.Tamil Nadu Electricity Board
Rep by its Chief Engineer (Personnel)
No.144, Anna Salai
Chennai – 600 002.

2.Superintending Engineer



Writ Petition No.21324 of 2011 etc., Batch

Tamil Nadu Electricity Board
Cuddalore Electricity Distribution Circle
Cuddalore.

3.Inspector of Labour
Cuddalore.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 1 and 2 to implement the order of Inspector of Labour, Cuddalore dated 04.07.2006 bearing E 6152 / 05 by absorbing the services of all the employees whose names are mentioned in the annexure to the order in the post of Mazdoor from the date when they completed 480 days of continuous service within a period of 24 calender months in terms of Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981, pay them all benefits and continuity of service.

For the Petitioner : Mr.Balan Haridas

For the Respondents: Mr.Anand Gopalan
for M/s T.S.Gopalan for RR1 & 2
Mr.T.K.Saravanan, Govt. Advocate for R3

COMMON ORDER



Writ Petition No.21324 of 2011 etc., Batch

WEB COPY (Order made by the Hon'ble Mr. Justice D. Bharatha Chakravarthy)

Claiming to be workmen under the then Tamil Nadu Electricity Board (now, Tamil Nadu Generation and Distribution Corporation Limited – hereinafter referred to as ‘the TANGEDCO’), having worked for various periods, continuously for more than 480 days at various places in Cuddalore District, they approached the Inspector of Labour under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, (hereinafter referred to ‘the Act’) for conferring permanent status on them.

2. About 21 claim petitions were filed between the year 2000 to 2007. Groups of employees of various numbers joined together and filed each of the claim petitions. About 79 employees joined together and filed the Claim Petition No.E6152 of 2005, which is one of the awards involved in these writ petitions. In the claim petition filed in the said case, details of various duties rendered by the workmen are furnished. It is contended that for all practical purposes they were directly under the employment of TANGEDCO and are not contract employees.



They were in service for a period of 480 days within 24 calendar months and therefore are entitled for permanency as per the Act.

3. The Claim Petition was resisted by TANGEDCO by stating that the workmen are contract labourers and they have no privity of employment with TANGEDCO. It is also false to state that they have put in 480 days within a period of 24 calendar months. TANGEDCO will not come within the purview of the Act. It is only the Industrial Tribunal / Labour Court which has the power to determine, whether an employee is contract employee or a direct employee under the Management and such an issue cannot be decided by the Inspector of Labour in the proceedings under the Act.

4. On such pleadings, the Inspector of Labour framed four issues, which are as follows:-

- (i) Whether TANGEDCO is an establishment as per the Act ?
- (ii) Whether the claimants will come within the definition and explanation of term 'employee' under the Act ?
- (iii) Whether the employees are direct employees of



Writ Petition No.21324 of 2011 etc., Batch

TANGEDCO or contract labourers ?

(iv) Whether the claimants are entitled for permanent status under the Act ?

5. The Inspector of Labour found that TANGEDCO is an establishment as per Section 2 (6) of the Act. The Inspector of Labour answered the issue No.2 that the claimants come within the definition of workman as per Section 2 (4) of the Act. The Inspector of Labour found that as per G.O.Ms.No.950, Labour and Employment Department, dated 08.06.1990, 19 types of work were prohibited to be given under contract employment as per Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 and therefore, when the very type of work is prohibited for giving under contract employment, answered the issue that the claimants cannot be considered as contract labourers and therefore held that they will be considered as the employees of TANGEDCO. After going through the records including the certificates issued by the Officers of the TANGEDCO itself and other documents produced by the claimants held that the claimants were in service for a period of 480 days within 24 calendar months and accordingly directed conferment of permanent status.



Writ Petition No.21324 of 2011 etc., Batch

WEB COPY

6. Including the above mentioned award in E6152 of 2005, the following awards were passed by the Inspector of Labour as far as the Cuddalore District is concerned:

- (1) E/5042/2003 dt. 09.03.2005
- (2) E/3237/2004 dt. 09.03.2005
- (3) E/909/2004 dt. 09.03.2005
- (4) E/8596/2004 dt. 04.08.2005
- (5) E/2535/2005 dt. 20.04.2007
- (6) E/5529/2005 dt. 20.04.2007
- (7) E/1015/2006 dt. 28.06.2007
- (8) E/6532/2006 dt. 28.06.2007
- (9) E/2455/2006 dt. 27.06.2006
- (10) E/2211/2006 dt. 28.06.2007
- (11) E/3360/2006 dt. 04.07.2007
- (12) E/5176/2005 dt. 15.06.2007
- (13) E/6680/2005 dt. 18.05.2007
- (14) E/8448/2005 dt. 12.04.2007
- (15) E/1558/2004 dt. 08.06.2007
- (16) E/8120/2002 dt. 04.07.2007
- (17) E/2110/2002 dt. 04.07.2007
- (18) E/6159/2000 dt. 15.06.2007
- (19) E/2114/2005 dt. 06.08.2007
- (20) E/3125/2007 dt. 06.08.2007



WEB COPY

7. Since the awards were not implemented, many of the employees who are claimants in the above awards had filed Writ Petitions before this Court for implementation of the awards. By an Order dated 31.03.2011 in W.P.Nos.7368 – 7370, 6626 – 6628, 7066 – 7068 of 2011, a learned Single Judge of this Court had allowed the Writ Petitions and directed the TANGEDCO to comply with the directions under five of the awards. Similarly, by an order dated 15.09.2011, the learned Single Judge in W.P.Nos. 13458 of 2011 etc., Batch had directed to implement the directions in ten awards. Again on 10.10.2011, by an order in W.P.Nos.22657 of 2011 etc., directions were issued to implement five of the awards.

8. After the above Orders to become final, TANGEDCO filed W.P.Nos.7368 – 7648, 7654 – 7662, 7666 – 7676, 7680 – 7689, 7693 – 7717, 7740 – 7764, 7781 – 7804 and 7831 – 7841 of 2012, challenging all these awards. A learned Single Judge disposed of all the above Writ petitions by a common order dated 27.03.2012. The learned Single Judge firstly, recorded that in one such order even the Standing Counsel demanded twelve weeks' time to comply with the order. The learned Single Judge found that TANGEDCO did not



explain the inordinate delay of 5 – 7 years in moving the Court and held that it is guilty of delay and laches. The learned Single Judge followed the Judgment of Division Bench in ***Superintending Engineer, Nagapattinam Electricity Distribution Circle, TNEB, Nagapattinam and Ors., Vs. Inspector of Labour, Thiruvarur and Ors.,¹***, whereunder the very TANGEDCO was lamented by the Division Bench for adopting a callaous approach towards the workmen and leaving them in long drawn litigations. The learned Single Judge specifically found that when earlier directions were issued to comply with the awards, during the pendency of the Writ Petitions, TANGEDCO did not take a stand that they wanted to challenge the award. Once the Mandamus is issued and the directions in the said Writ Petitions have become final, thereafter, it was not open for TANGEDCO to challenge the very award itself. It is essential to extract paragraph Nos. 10 – 12 of the order of the learned Single Judge, which read as follows:-

“10.Finally, when a writ in the nature of mandamus was issued to the petitioner Board to comply with the order and if it had become final, there is no scope for the petitioner to come forward to challenge an order for which directions were issued to comply. In essence, when writ petitions in the nature of mandamus came to be filed before this court, the Board should have woken up and sought for time to challenge the order passed by the Inspector of Labour. On the other hand, not only they did not challenge the order passed by the Inspector of Labour, but also allowed the direction issued in the writs to become final. Once the writ in the nature of mandamus was issued

1 2009 (4) MLJ 472



WEB COPY



Writ Petition No.21324 of 2011 etc., Batch

by this court and if it became final, even by a parliamentary law, the right accrued to the parties cannot be denied.

11. In this context, it is necessary to refer to a judgment of the Supreme Court in *Madan Mohan Pathak v. Union of India* reported in (1978) 2 SCC 50 and in paragraphs 9 and 32, it was observed as follows:

"9..... Here, the judgment given by the Calcutta High Court, which is relied upon by the petitioners, is not a mere declaratory judgment holding an impost or tax to be invalid, so that a validation statute can remove the defect pointed out by the judgment amending the law with retrospective effect and validate such impost or tax. But it is a judgment giving effect to the right of the petitioners to annual cash bonus under the Settlement by issuing a writ of mandamus directing the Life Insurance Corporation to pay the amount of such bonus. If by reason of retrospective alteration of the factual or legal situation, the judgment is rendered erroneous, the remedy may be by way of appeal or review, but so long as the judgment stands, it cannot be disregarded or ignored and it must be obeyed by the Life Insurance Corporation. We are, therefore, of the view that, in any event, irrespective of whether the impugned Act is constitutionally valid or not, the Life Insurance Corporation is bound to obey the writ of mandamus issued by the Calcutta High Court and to pay annual cash bonus for the year April 1, 1975 to March 31, 1976 to Class III and Class IV employees.

32. I may, however, observe that even though the real object of the Act may be to set aside the result of the mandamus issued by the Calcutta High Court, yet, the section does not mention this object at all. Probably this was so because the jurisdiction of a High Court and the effectiveness of its orders derived their force from Article 226 of the Constitution itself. These could not be touched by an ordinary act of Parliament. Even if Section 3 of the Act seeks to take away the basis of the judgment of the Calcutta High Court, without mentioning it, by



Writ Petition No.21324 of 2011 etc., Batch

enacting what may appear to be a law, yet, I think that, where the rights of the citizen against the State are concerned, we should adopt an interpretation which upholds those rights. Therefore, according to the interpretation I prefer to adopt the rights which had passed into those embodied in a judgment and became the basis of a mandamus from the High Court could not be taken away in this indirect fashion."

12.The above judgment came to be subsequently followed by the Supreme Court in ***Ishwar Dutt v. Land Acquisition Collector*** reported in (2005) 7 SCC 190 and in paragraph 29, it was observed as follows:

"29.Furthermore, a writ of mandamus is required to be obeyed unless a judgment is overruled or a legislation by way of a validating statute is brought into force."

9. Aggrieved thereby, TANGEDCO filed W.A.Nos.1340 and 1341 of 2012, in respect of two of the Writ Petitions which were dismissed by the learned Single Judge. By Judgment dated 10.07.2012, the Division Bench of this Court again found that when directions are already issued in the Writ Petitions filed by the workmen. The Orders have become final. The rights under the Orders cannot be taken away by the appellants by filing Writ Petitions challenging the awards subsequently. By another Judgment dated 11.07.2012 in W.A.Nos.1390 of 2012 etc., the same order was followed by confirming the order of the learned Single Judge. As against the said Judgment of the Division Bench of this Court,



Writ Petition No.21324 of 2011 etc., Batch

TANGEDCO preferred S.L.P.Nos.24740 – 24741 of 2012 and by an order dated 08.04.2013, the Hon'ble Supreme Court of India dismissed the Special Leave Petitions. However, while dismissing the SLP, liberty was granted to move a review application in respect of the matters where TANGEDCO is alleging that the award itself was forged.

10. Thereafter, TANGEDCO filed R.A.Nos.89, 103 to 192 of 2015 before this Court contending that several awards which are produced by the workmen are forged. The Division Bench of this Court considered the Review Applications in detail and after going through the files found that the awards were actually issued and were not forged. The concerned Inspector of Labour, viz., Mr.George Edington had signed in the note-sheets and orders were also passed and signed by him. The Division Bench went through the 20 original files of all these awards mentioned above and the Review Applications were dismissed.

11. As against the dismissal of the Review Applications, once again TANGEDCO approached the Hon'ble Supreme Court of India by way of SLP Nos.7222 – 7312 of 2017 and the same were also dismissed. Subsequently, the



Writ Petition No.21324 of 2011 etc., Batch

matter was once again dealt with in detail by a learned Single Judge in Cont.P.No.1223 of 2011 etc.,. By an order dated 28.02.2020, the workmen concerned were directed to appear before the Superintending Engineer, TANGEDCO, Cuddalore, with the documents mentioned therein and it was directed that the orders of absorption be passed upon reporting.

12. As a matter of fact, once again the matter was taken up to the Division Bench by way of the Intra Court Appeal in Cont.A.Nos.11 – 79 of 2020 and the appeals were dismissed. The matter was further taken up to the Hon'ble Supreme Court of India in SLP No.14523 – 14660 of 2021 and by a Judgment dated 03.12.2021, the SLP's were also dismissed.

13. It is in these circumstances, in the year 2019, the following 10 Writ Petitions are filed, challenging the very same awards which were subject matter of the earlier proceedings. Details are tabulated as follows:-

Sl.No.	Writ Petitions	Details of Awards
1.	W.P.No.30279/2019 (Cuddalore)	Quash the order dated 27.06.2006 in Petition E/2455/06 which conferred permanent status to respondents 2 to 15
2.	W.P.No.30284/2019	Quash the order dated 04.07.2007 in Petition E/3360/06 which conferred permanent status to



Writ Petition No.21324 of 2011 etc., Batch

Sl.No.	Writ Petitions	Details of Awards
		respondents 2 to 11
3.	W.P.No.30290/2019	Quash the order dated 28.06.2007 in Petition E/2211/06 which conferred permanent status to respondents 2 to 7
4.	W.P.No.30983/2019	Quash the order dated 04.07.2006 in Petition E/6152/05 which conferred permanent status to respondents 2 to 20
5.	W.P.No.30984/2019	Quash the order dated 29.06.2007 in Petition E/2580/06 which conferred permanent status to respondents 2 to 33
6.	W.P.No.30987/2019	Quash the order dated 04.07.2007 in Petition E/2110/02 which conferred permanent status to respondents 2 to 12
7.	W.P.No.30995/2019	Quash the order dated 04.07.2007 in Petition E/8120/02 which conferred permanent status to respondents 2 to 9
8.	W.P.No.30998/2019	Quash the order dated 12.04.2007 in Petition E/8448/05 which conferred permanent status to respondents 2 to 36
9.	W.P.No.31003/2019	Quash the order dated 18.05.2007 in Petition E/6680/05 which conferred permanent status to respondents 2 to 37
10.	W.P.No.31055/2019	Quash the order dated 06.08.2007 in Petition E/3125/07 which conferred permanent status to respondents 2 to 19

14. It is the contention of TANGEDCO that the respondents in the present Writ Petitions did not approach this Court earlier, while there other co-claimants had only approached this Court. Similarly, some of the workmen who are claimants in the self same awards have also filed the following Writ Petitions



Writ Petition No.21324 of 2011 etc., Batch

with a prayer to implement the awards:

- (i) W.P.No.28896 of 2011 to implement the award in E/6152/05 dated 04.07.2006;
- (ii) W.P.No.21876 of 2011 to implement the award in E/6532/06 dated 28.06.2007 and
- (iii) W.P.No.28105 of 2011 to implement the award in E/3108/99 dated 25.07.2003
- (iv) W.P.No.21324 of 2011 to implement the award in E/6152/05 dated 04.07.2006.

As such, all the fourteen writ petitions are taken up for hearing and disposed off by this common judgment.

15. We have heard *Mr.Anand Gopalan*, learned counsel appearing on behalf of *M/s T.S.Gopalan* and *Mr.N.Suresh* and *Mr. Balan Haridoss*, the learned counsel appearing on behalf of the workmen.

16. *Mr.Anand Gopalan*, learned counsel appearing on behalf of TANGEDCO would submit that even according to the workmen they were engaged as contract labourers. Their cases ought not to have been considered by the Inspector of Labour under the Act. They have to be relegated to the Industrial



Writ Petition No.21324 of 2011 etc., Batch

Tribunal / Labour Court for the relief. The said question as to whether an employee is a direct employee or a contract labourer could not have been decided by the Inspector of Labour. This legal position since been confirmed by the Division Bench of this Court in W.P.No.4061 of 2013 etc., Batch dated 07.03.2022. The said view has since been followed in other cases also. Therefore, in these cases also, following the same view, the awards have to be set aside.

17. *Mr.Anand Gopalan*, would further submit that originally when Review Applications are filed on the ground that some of the awards were forged, they did not have the benefit of a forensic report. Subsequently upon their reference, the forensic lab of the Forensic Sciences Department, Government of Tamil Nadu, Chennai had given its report dated 21.02.2018 which confirms that the signature is not that of the Mr.George Edington and therefore, the awards are forged.

18. It is the next submission of the learned counsel that earlier a Coordinate Bench of this Court has taken a view that the award has to be



Writ Petition No.21324 of 2011 etc., Batch

implemented only till they were in service. Once they are terminated, then it is for them to approach the Labour Court, if they are aggrieved of the termination, so as to get reinstated. In this regard, the learned counsel would rely upon the Judgment of the Division Bench of this Court in 1544 of 2022 dated 15.07.2022 and W.A.No.2252 of 2021 etc., dated 22.02.2022.

19. As regards the delay, the learned counsel would contend that when the very jurisdiction of the Inspector of Labour under the Act is questioned and when the awards are dubious in nature, TANGEDCO should not be shunted out only on the ground of delay.

20. *Mr.Anand Gopalan*, learned counsel would also submit that even in the earliest round, vide order dated 24.10.2008 the Division Bench in W.A.No.1302 of 2003 etc., Batch ultimately directed only the implementation of the settlement under Section 12(3) of the Industrial Disputes Act and did not direct to implement the awards. Relying upon the Judgment in ***Mary Pushpam Vs. Telvi Curusumary and Ors.,²*** *Mr.Anand Gopalan*, would impress upon us that the Judgment of the co-ordinate Benches holding that the Inspector of Labour

² 2024 SCC OnLine SC 9



cannot decide the question as to contract labour or direct employment should be followed by this Court.

21. Per contra, *Mr.N.Suresh*, the learned counsel appearing on behalf of the workmen would submit that in all the 10 Writ Petitions filed by TANGEDCO, already the awards were directed to be implemented by this Court. The said orders have become final. The learned Single Judge as early as in the year 2012 had held that the respondents are guilty of delay and latches in challenging the awards. Further attempts to challenge the awards having become futile by the dismissal of the Writ Petitions, Writ Appeals, SLP's. Again Reviews and SLPs were dismissed. Again the contentions for the third time were negatived in Contempt Petitions, Contempt Appeals and SLPs. This is an ingenious attempt by the TANGEDCO to once again delay and drag on the matter and thereby to keep the workmen at bay inspite of having repeated Orders.

22. *Mr. N. Suresh*, would submit that when the workmen have proved that they have worked for 480 days within a period of 24 calendar months and when TANGEDCO is an establishment within the act, then the order of the



Writ Petition No.21324 of 2011 etc., Batch

Inspector of Labour cannot be said to be without jurisdiction. The orders are genuine and are not forged. Already the veracity and correctness have been decided in three rounds and therefore, the present Writ Petitions filed in the year 2019 challenging the awards which were passed during 2006-2007 are hopelessly hit by delay and latches and are also barred in view of the earlier Judgments.

23. *Mr.Balan Haridoss*, learned counsel appearing for the workmen in W.P.No.21324 of 2011 would submit that the very argument of *Mr.Anand Gopalan* that wherever the issue of contract labour is involved the Inspector of Labour under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 cannot be approached, is inherently erroneous in law and contrary to the settled legal principles. Taking this Court through the Judgment of the Hon'ble Supreme Court of India in ***Steel Authority of India Ltd. and Ors. Vs. National Union Waterfront Workers and Ors.***³, he would submit that the question decided therein was relating to the 'appropriate Government' and the present issue was not decided. Once the engagement of workmen in respect of activities for which contract labour is prohibited by a

3 2001 SCC (L&S) 1121



Writ Petition No.21324 of 2011 etc., Batch

notification under the Contract Labour (Regulation and Abolition) Act, 1970, whether the parties cannot still approach the Inspector of Labour is the question in the present cases, which are not decided in the earlier Judgments. He would also rely upon the following Judgments:-

1.	Metal Powder Company Ltd. And Anr., Vs. State of Tamil Nadu and Anr.,	1985 (2) LLN738
2.	State of Tamil Nadu Vs. Nellai Cotton Mills Ltd.,	1990 (2) SCC 518
3.	L.Justine Vs. Registrar of Co-operative Societies	2003 (1) LLN 315
4.	Uma Rani Vs. Registrar of Co-operative Societies	2004 (7) SCC 112
5.	Maharashtra State Road Transport Corporation and Anr. Vs. Casteribe Rajya Parivahan Karmchari Sanghatana	2009 (8) SCC 556

24. We have considered the rival submissions made on either side and perused the material records of the case. We are unable to accept any of the contentions made by TANGEDCO for the following reasons. It can be seen that



Writ Petition No.21324 of 2011 etc., Batch

with exception of W.P.No.30984 of 2019, in all the other Writ Petitions, the very same award at the instance of the other claimants has already been directed to be implemented. The same is depicted in the following tabular column:-

Sl.No.	Writ Petitions	Reference of the Award challenged	Earlier order directing implementation
1.	W.P.No.30983/2019	E/6152/05 dated 04.07.2006	W.P.No.22657/2011 dated 10.10.2011
2.	W.P.No.30998/2019	E/8448/05 dated 12.04.2007	W.P.No.22657/2011 dated 10.10.2011
3.	W.P.No.30284/2019	E/3360/06 dated 04.07.2006	W.P.No.22446/2011 dated 28.06.2012
4.	W.P.No.30279/2019	E/2455/06 dated 27.06.2006	W.P.No.7368/2011 dated 31.03.2011 W.P.No.13458/2011 dated 15.09.2011
5.	W.P.No.30290/2019	E/2211/06 dated 28.06.2007	W.P.No.22446/2011 dated 28.06.2012
6.	W.P.No.30995/2019	E/8120/02 dated 04.07.2007	W.P.No.22657/2011 dated 10.10.2011
7.	W.P.No.31055/2019	E/3125/07 dated 06.08.2007	W.P.No.7368/2011 dated 31.03.2011 W.P.No.13458/2011 dated 15.09.2011
8.	W.P.No.31003/2019	E/6680/05 dated 18.05.2007	W.P.No.78 & 97/2012 dated 28.08.2019
9.	W.P.No.30987/2019	E/2110/02	Except for 6 th respondent IOL order was implemented for other workmen



WEB COPY

25. Already by the Judgment dated 27.03.2012 in W.P.No.7638 of 2012 the Learned Single Judge has held that so long as the order directing the implementation of the award is in force, subsequently, the very award cannot be challenged by way of another Writ Petition. The said view has been affirmed by the Division Bench and the SLP's filed by TANGEDCO have already been dismissed. Therefore, in the present case, there is no question of referring to the other Judgments and views taken in other matters, when the rights of parties having stood already determined in respect of the self same awards. The Judgment inter-parties in respect of the self same awards have to be followed. There cannot be one Judgment directing the award to be implemented and dismissing the challenge to the award and another Judgment holding that the workmen should approach the Industrial Tribunal / Labour Court. As a matter of fact, even in the Judgment cited by the learned counsel appearing on behalf of the TANGEDCO in ***Mary Pushpam's case*** (cited supra), it has been held as follows:-

“23. In the current case, as previously mentioned, the High Court's judgment from the initial round dated 30.03.1990, noted that the disputed property included 8 cents of land, not just the building structure on it. As per the Doctrine of Merger, the judgments of the Trial Court and the First Appellate Court from the first round of litigation are absorbed into the High Court's judgment dated 30.03.1990. This 1990 judgment should be regarded as the conclusive and binding order from the initial litigation. Following the principles of judicial discipline, lower or subordinate Courts do not



WEB COPY



Writ Petition No.21324 of 2011 etc., Batch

have the authority to contradict the decisions of higher Courts. In the current case, the Trial Court and the High Court, in the second round of litigation, violated this judicial discipline by adopting a position contrary to the High Court's final judgment dated 30.03.1990, from the first round of litigation.”

(emphasis supplied)

26. Thus, when the rights of the parties conclusively determined in the earlier rounds by this Court and the repeated SLP's being dismissed, the contention that the parties are to be relegated to Labour Court/Industrial Tribunal cannot be sustained.

27. Further, the contention of TANGEDCO is that the claim petition is not maintainable before the Inspector of Labour under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 where contract labours are involved is a legal plea and it is taken up now for the first time. We are unable to agree. We have already extracted their case in the counter in which the said plea is taken. A specific finding is given in respect of said plea in the award. The said award is to be held valid and directed to be implemented. Even in the earliest round decided by the Division Bench in *the Superintending*



Writ Petition No.21324 of 2011 etc., Batch

Engineer and Ors. Vs. The Inspector of Labour and Ors.,⁴ such a plea has been

specifically taken and it has been answered as follows:-

“23.If this was only a case of adjudication of whether the status of workmen was as directly employed by the Electricity Board or they were employed only as contract labourers, we would have directed that the objection should be considered and an adjudication made in the industrial dispute raised under Section 33(2)(b) of the Industrial Dispute Act. The argument advanced by Shri. Hariparanthaman is that the fate of more than 21, 000 workmen was being adjudicated before the Labour Court in I.D. No. 106 of 2003 and that would be the appropriate forum of adjudication. He urged that the petitioner in W.P. No. 27714 of 2007 and connected writ petitions ought to have been directed only to challenge the agreement before the Industrial Tribunal and not by means of writ petition. We have already seen that remedy by writ petition itself is not barred and if the board as an employer has conceded to their status as workmen to whom the provisions of the T.N. Industrial Establishments (Conferment of Permanent Status Act) could be applicable, there is no warrant for directing the parties to seek adjudication before the Industrial Tribunal.”

In any event, the said defence failed in the previous round when the Writ Petitions were filed to implement the award, cannot now be considered.

28. It is the further contention of *Mr.Anand Gopalan* that the impugned awards are forged. A perusal of the Forensic Report dated 21.02.2018 produced now before this Court, it is clear that the experts have compared the signatures contained in two different awards and held that the signature in the impugned

4 (2009) 4 MLJ 472



award does not match with the other. Strangely, the TANGEDCO did not even choose to examine the officer nor did it take his admitted signature for its comparison, when it requested for forensic examination. Therefore, the entire report is to be rejected on the face of it. Secondly, already in the Judgment of this Court in R.A.No.89 of 2015 etc., the Division Bench has in fact summoned the then Inspector of Labour as also the 20 original files relating to these awards and had returned the finding that the awards are not forged. After SLP as against the order having been dismissed, TANGEDCO cannot now be permitted to take the self same stand. Accordingly, the said contention of TANGEDCO is also rejected.

29. The further contention in this matter is that in yet another case, the award has been directed to be implemented, until such time, the claimants were in service. Once again the said submissions are unsustainable in the present case, because, as a matter of fact, the issue has already been decided and no such condition has been imposed in respect of the other claimants. Therefore, we see the said contention is nothing but an effort to derail the claims that are already crystallized. Thus, finding no merits, the above Writ Petitions filed by the



Writ Petition No.21324 of 2011 etc., Batch

TANGEDCO challenging the awards of the Inspector of Labour are bound to fail and are accordingly dismissed.

30. As a natural corollary, as the directions have already been issued to implement the self same award, the Writ Petitions in W.P.Nos.21324, 21876, 28105 and 28896 of 2011 filed by the workmen to implement the award, since they were not the petitioners in earlier Writ Petitions deserves to be allowed and are accordingly allowed.

31. In the Result:

- (i) The W.P.Nos.30279, 30284, 30290, 30983, 30984, 30987, 30995, 30998, 31003 and 31055 of 2019 filed by the TANGEDCO shall stand dismissed;
- (ii) W.P.Nos.21324, 21876, 28105 and 28896 of 2011 filed by the workmen shall stand allowed;
- (iii) No costs. Consequently connected miscellaneous petitions are closed.

(S.V.G., C.J.,)

(D.B.C., J.,)

02.02.2024



Writ Petition No.21324 of 2011 etc., Batch

Jer

WEB COPY

Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The Chief Engineer (Personnel)

Tamil Nadu Electricity Board

No.144, Anna Salai

Chennai – 600 002.

2.The Superintending Engineer

Tamil Nadu Electricity Board

Cuddalore Electricity Distribution Circle

Cuddalore.

3.The Inspector of Labour

Cuddalore.



WEB COPY



Writ Petition No.21324 of 2011 etc., Batch

**THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.,**

Jer

Pre – Delivery Order made in
Writ Petition Nos.21324, 21876, 28105, 28896 of 2011
and 30279, 30284, 30290, 30983, 30984, 30987, 30995
30998, 31003, 31055 of 2019

02.02.2024