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W.P.Nos.26547 to 26549 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.Nos.26547 to 26549 of 2011

S.Kumaraguru

...Petitioner in W.P.No.26547 of 2011

G.Raja

...Petitioner in W.P.No.26548 of 2011

G.Raju

...Petitioner in W.P.No.26549 of 2011

Vs.

1.The Tamil Nadu Electricity Generation &
Distribution Corporation Ltd.,
Represented by The Chairman,
No.144, Annasalai,
Chennai – 2.

2.The Chief Engineer (Personnel)
The Tamil Nadu Electricity Generation &
Distribution Corporation Ltd.,
Represented by The Chairman,
No.144, Annasalai,
Chennai – 2.

3.The Superintending Engineer,
General Construction Circle,
The Tamil Nadu Electricity Generation &
Distribution Corporation Ltd.,
Mannarpuram, Trichy – 20.

...Respondents in all writ petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the
Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the



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records of the second respondent in Letter No.085331/G58/G.582/2010-1 dated 18.03.2011 and quash the same and thereby direct the respondents to absorb the petitioner in the Tamil Nadu Electricity Generation and Distribution Corporation Ltd.

IN BOTH WRIT PETITIONS:

For Petitioner : Mr.N.Suresh
For R1 to R3 : Mr.D.Gopal
Government Advocate

COMMON ORDER

These Writ Petitions have been filed to call for the records of the second respondent in Letter No.085331/G58/G.582/2010-1, dated 18.03.2011 and quash the same and thereby direct the respondents to absorb the petitioners in the Tamil Nadu Electricity Generation and Distribution Corporation Ltd.

2.When the matter is taken up, the learned counsel for the respondents submitted that the petitioners had earlier agitated before the Inspector of Labour to grant them permanent status and that was considered in their favour. Against this order, Tamil Nadu Electricity Board filed W.P.No.17279 of 2018 and W.M.P.No.20561 of 2018. This Court, on 14.10.2019 in W.P.No.17279 of 2018 and W.M.P.No.20561 of 2018, passed the following order:

25. In the present case, the application is filed



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before the Assistant Inspector of Labour and the grounds raised by the writ petitioner in respect of the application of the Act as well as the service regulations in force in the Tamil Nadu Electricity Board were not considered and the Assistant Inspector of Labour has passed the order without considering all these legal grounds and thus, this Court has no hesitation in coming to the conclusion that the order of the 1st respondent is perverse and not in consonance with the legal principles settled by the constitutional Courts across the country as well as by the Apex Court of India.

26. However, it is made clear that the case of the writ petitioner is also to be considered with reference to the judgment of the Hon'ble Division Bench of this Court rendered in the case of Superintending Engineer, Nagapattinam Electricity Distribution Circle Vs. Inspector of Labour, Pedari Koil Street, Thiruvarur, reported in 2009 (4) MLJ 472 and the 12(3) Settlement dated 10.08.2007 and also in the light of B.P.(Chairman)No.9, Administrative Branch, dated 09.01.2008. If the petitioners are otherwise eligible and qualified with reference to the terms and conditions of the 12(3) Settlement as well as the Board proceedings, their cases are to be considered by



verifying the eligibility criteria and other requisite qualifications as prescribed in the above orders.

27. Under these circumstances, the order passed by the 1st respondent in proceedings Na.Ka.No.A/476/2012 dated 22.01.2018 is quashed and the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

3.He further submitted that the Hon'ble First Bench of this Court in W.P.Nos.5245, 5250 & 5251 of 2020 held that in matters like this, the petitioners may approach the competent Labour Court or such other forum as may be permissible in law to agitate their grievances.

4.In reply, the learned counsel for the petitioners submitted that in W.P.No.17920 of 2010, this Court directed the third respondent to consider the request of the petitioners in the light of B.P.No.9, dated 09.01.2008 and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of that order. Thereafter, an order had been passed on 18.03.2011, stating that the petitioners were engaged by the contractors and wages also were paid by the contractors only. There is no employer employee relationship with the Board. Therefore, petitioners have not been identified as



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contract labourers as on 08.08.1998 and they have not been paid any Ex-gratia.

Thus, he submitted that the petitioners can maintain these writ petitions on the basis of the settlement reached.

5.Considered the rival submissions and perused the records.

6.The Writ Petitions have been filed for the relief of absorbing the petitioners in the Tamil Nadu Electricity Generation and Distribution Corporation Ltd as permanent employees. As rightly pointed out by the learned counsel for the respondents this issue was already agitated before the Inspector of Labour. Though the Inspector of Labour found in favour of the petitioners, in the Writ Petition filed in W.P.No.17279 of 2018 that finding was reversed. Therefore, the issue involved in these Writ Petitions was already decided in W.P.No.17279 of 2018. This Court cannot again go into this issue of absorbing the petitioners as permanent employees.

7.That apart, as held by the Hon'ble First Bench in W.P.Nos.5245, 5250 & 5251 of 2020, these matters should have been agitated before the Labour Court and the Writ Petitions filed before this Court are not maintainable.



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WEB COPY 8. For the reasons stated above, this Court finds no merits in these Writ Petitions. Accordingly, these Writ Petitions stand dismissed. Consequently, connected Miscellaneous Petition, if any, is closed. No costs.

27.03.2024

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

NCC: Yes/No

To

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G.CHANDRASEKHARAN, J.

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