



W.A.No.1860 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.1860 of 2021

S.Srinivasan

.. Appellant

Vs

- 1.The Chairman,
Tamilnadu Electricity Board,
144, Anna Salai,
Chennai-600 002.
- 2.The Chief Engineer (Personnel),
Tamilnadu Electricity Board/
Tamil Nadu Generation and Distribution
Corporation (TANGEDCO)
144, Anna Salai,
Chennai-600 002.
- 3.The Superintending Engineer,
TANGEDCO Vallam Road,
Thanjavur Division,
Thanjavur District.



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4.The Executive Engineer,
TANGEDCO
Kumbakonam Division,
Rajan Thottam,
Thiruvidadaimaruthur,
Kumbakonam-621 001
Thanjavur District.

5.G.Arulanandham
6.C.Rajaprabhu
7.Gurumorthy
8.U.Sakthivel
9.A.Baskar

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 27.7.2018 passed in W.P.No.1717 of 2015.

For the Appellant : Mr.L.Chandrakumar

For the Respondents : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.
for respondents 1 to 5

: R6 to R9 - Not Ready in
Notice

JUDGMENT

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.L.Chandrakumar, learned counsel for the appellant; and, Mr.Anand Gopalan, learned counsel for



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M/s.T.S.Gopalan & Co., learned counsel for respondents 1 to 5.

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2. Learned counsel for the appellant submits that the issue involved in the present appeal is covered by the decision of a Division Bench of this Court in W.P.No.4061 of 2013 and batch cases, dated 07.03.2022.

3. Paragraph 34 of the above said decision reads as under:

"34. We have considered the submission aforesaid and find that the order passed by the Labour Inspector needs to be interfered with remand of the case. It is, however, to be made clear that the Labour Inspector would not cause enquiry beyond the powers given under the Act of 1981 and thereby would not be having jurisdiction to adjudicate the complicated questions of fact and law in reference to any other statute than the Act of 1981. The Labour Inspector may, for the purpose of conducting summary enquiry, allow the parties to produce documents and if any of the workmen has completed 480 days of continuous service in 24 calendar months, appropriate directions can be issued for granting permanency. However, even if such an order is issued, it should be with a



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clear finding about each workman and the number of working days by referring to the period of 24 calendar months. The benefit as to the consequences thereupon would be only for the period of employment and if any of the workmen is discontinued or not in service, he would be entitled to the benefit only for the period of service and not beyond that and, that too, after the completion of continuous service of 480 days in 24 calendar months, and not for a prior period. The direction aforesaid is not driven by the settlement for the reason that the workmen herein are those who were not extended the benefit of settlement and, therefore, sought claims by maintaining claim separately. However, it would not preclude both the sides from entering into settlement, if they so choose, during the period of summary enquiry by the Labour Inspector. The issue as to whether the respondents fall within the definition of "workman" is however decided against the petitioner Corporation, as not only a settlement was entered, but adjudication about claim to seek permanency has been decided earlier in reference to similarly placed."

4. In view of the above said decision of this Court, the present writ appeal is also disposed of. However, we make it clear that the



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authority can go into the question as to whether the contract is sham and nominal and, if it is sham and nominal, he has no authority to decide the issue and the matter has got to be decided either before the Industrial Adjudicator or the authority under the Contract Labour (Regulation and Abolition) Act, 1970. The authority is expected to decide the issue as early as possible on day-to-day basis, without adjourning the matter beyond seven working days at any point of time, as the same is pending for more than 25 years. There shall be no order as to costs.

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

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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