



W.P.(MD) Nos.7826 of 2022 and batch

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) Nos.7826, 7827, 7828, 7829,
7830, 7831, 7832, 9246, 9247, 9248, 9249,
9250, 9251, 9252 and 11302 of 2022
and
W.M.P.(MD) Nos.5877, 5878, 5881, 5883,
5886, 5887, 5890, 6610, 6611, 6612, 6613,
6614, 6615, 6616, 6617, 6618, 6619, 6620,
6621, 6622, 6623 and 8074 of 2022

W.P.(MD) No.7826 of 2022:

1.The Superintending Engineer,
Dindigul Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation,
Meenakshinaickenpatti,
Dindigul.

2.The Assistant Engineer,
Generation and Maintenance,
Vathalakundu Division,
Tamil Nadu Electricity Generation and
Distribution Corporation, Dindigul.

... Petitioner

Vs.

1.Assistant Commissioner of Labour (Enforcement),
Authority under the Tamil Nadu Industrial



W.P.(MD) Nos.7826 of 2022 and batch

WEB COPY

Establishment (Conferment of Permanent Status
to Workmen) Act, 1981,
Dindigul.

2.R.Alagarsamy

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari, to call for the records of the 1st respondent in C.P.S.No.33 of 2014 and quash its order dated 31.07.2020.

In all W.Ps.

For Petitioner	:	Ms.P.Malini for M/s.T.S.Gopalan & Co.
For R1	:	Mr.D.Sasikumar Additional Government Pleader
For R2	:	No appearance

COMMON ORDER

These writ petitions have been filed by the Tamil Nadu Generation and Distribution Corporation seeking a Writ of Certiorari calling for the records relating to and in connection with C.P.S.Nos.26, 33, 34, 35, 36, 38, 39, 42, 43, 48, 49, 50, 51, 52 and 53 of 2014, dated 31.07.2020 passed by the 1st respondent herein and to quash the same.



W.P.(MD) Nos.7826 of 2022 and batch

WEB COPY

2. In these batch of writ petitions, the common order passed by the Assistant Commissioner of Labour (Enforcement) under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 is challenged.

3. By the impugned order, the Assistant Commissioner of Labour (Enforcement) issued direction for grant of permanent status to the respondent-employees from the date of completion of 180 days in 24 calendar month of their services. The challenge to the said order has been made on many grounds. The common impugned order is passed in respect of several employees granting relief in favour of the respondent-employees. The validity of the very same impugned order has fallen for consideration before a learned Single Judge of this Court in W.P.Nos.7548 of 2022 and batch and the learned Judge, by order dated 21.04.2022, allowed the entire batch of writ petitions duly remanding the matter to the Assistant Commissioner of Labour (Enforcement) for passing orders afresh, after summary enquiry. These batch of writ petitions are some of the writ petitions, which fell out of the said batch and pending before this Court.



W.P.(MD) Nos.7826 of 2022 and batch

WEB COPY

4. It is brought to the notice of this Court by the learned counsel for the petitioners that similar writ petitions were filed before the Hon'ble First Bench of this Court in the case of ***Superintending Engineer, Erode Electricity Distribution Circle, Tamil Nadu Electricity Board vs. Inspector of Labour, Erode and others*** and the said order passed by the Honb'le First Bench of this Court, reported in ***2022 SCC OnLine Madras 1003***, has also become final. Further, the said order passed by the Hon'ble First Bench has been taken note of by the learned Single Judge in the order dated 21.04.2022.

5. Though notice is ordered and served on the respondent-employees, no appearance is entered and their respective names are printed in the cause list.

6. In the light of the decisions of the learned Single Judge and the Hon'ble First Bench referred to above, this Court has no option, except to follow the said decisions and remand the matter back to the Assistant Commissioner of Labour (Enforcement) for passing fresh orders by duly setting aside the impugned order, which was already set aside in the decision



W.P.(MD) Nos.7826 of 2022 and batch

of the learned Single Bench. The relevant portion of the order passed by the learned Single Bench reads as under:

“3. Similar writ petitions were filed before the Hon'ble First Bench of this Court and the Hon'ble First Bench has decided those writ petitions in the case of Superintending Engineer, Erode Electricity Distribution Circle, Tamil Nadu Electricity Board vs. Inspector of Labour, Erode and others, reported in (2022) SCC Online Mad 1003. The Hon'ble First Bench passed the following orders:

“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



WEB COPY



W.P.(MD) Nos.7826 of 2022 and batch

calendar months, appropriate directions can be issued for granting permanency. However, even if such an order is issued, it should be with a 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 workman 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



W.P.(MD) Nos.7826 of 2022 and batch

“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.

35. With the aforesaid directions, all the writ petitions are disposed of by causing interference with the order passed by the Labour Inspector. The orders passed by the Labour Inspector are set aside with remand of the case to the Labour Inspector for passing orders afresh, after summary enquiry.

36. There will be no order as to costs. Consequently, all miscellaneous petitions are closed”

4. In view of the order of the Hon'ble First Bench cited supra, the matters are to be remanded back to the Assistant Commissioner of Labour (Enforcement) Dindigul, for fresh consideration.

5. Accordingly, the orders impugned passed by the first respondent, dated 31.07.2020 are quashed and the matters are remanded back to the Assistant Commissioner of Labour (Enforcement), Dindigul, for fresh consideration on



W.P.(MD) Nos.7826 of 2022 and batch

WEB COPY

merits and in accordance with law and the Writ Petitions are allowed.”

7. In the light of the above decisions of the learned Single Judge and the Hon'ble First Bench, the order impugned in these batch of writ petitions is also set aside and the matter is remanded back to the Assistant Commissioner of Labour (Enforcement) for passing orders afresh in accordance with law. It is further directed that necessary enquiry be conducted in accordance with law by putting all the respondent-employees on notice and after affording them reasonable opportunity. No costs. Consequently, connected miscellaneous petitions are closed.

26.02.2024

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

ABR



W.P.(MD) Nos.7826 of 2022 and batch

WEB COPY

To

The Assistant Commissioner of Labour (Enforcement),
Authority under the Tamil Nadu Industrial
Establishment (Conferment of Permanent Status
to Workmen) Act, 1981,
Dindigul.



WEB COPY



W.P.(MD) Nos.7826 of 2022 and batch

MUMMINENI SUDHEER KUMAR, J.

ABR

**W.P.(MD) Nos.7826, 7827, 7828, 7829,
7830, 7831, 7832, 9246, 9247, 9248, 9249,
9250, 9251, 9252 and 11302 of 2022**

26.02.2024