



W.P. No.19948 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.19948 of 2012

Tamil Nadu Electricity Workers Federation

Mettur Thermal Power Station,

Mettur Dam - 636 406.

represented by its Secretary.

V. Rajendran

.. Petitioner

vs.

1. The Presiding Officer,
Tamil Nadu Industrial Tribunal, Chennai.

2. The Chief Engineer,
Mettur Thermal Power Station,
Tamil Nadu Electricity Board,
Mettur Dam - 636 406.

.. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records connected with the common award dated 28.08.2009 passed by the 1st respondent in I.D. No.6 of 2004, quash the same in so far it relates to I.D. No.6 of 2004 is concerned, also direct the respondent / Board to revise and refix the seniority of the members of the petitioner union taking into account the date of joining mentioned in the Vigilance report dated 31.12.98 as



W.P. No.19948 of 2012

criterion.

For Petitioner : Mr. N.K. Kanthimathi for
M/s. S. Girija

For Respondents : R1 - Court.

Mr. Anand Gopalan
for M/s. T.S. Gopalan & Co. [for R2]

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed in I.D. No.6 of 2004 on the file of the Labour Court, Chennai dated 28.08.2009 and to quash the same.

2. **The short facts necessary to dispose the Writ petition are as follows:-**

The petitioner is the Union representing the Members of the Union. The Members of the petitioner Union were working as Contract Labourers in the Mettur Thermal Power Station. After completion of 480 days of service, the Union demanded the Board to regularize the services of the Members. Thereafter, the Vigilance Cell identified the contract labourers and thereafter, they were absorbed as Regular Work Establishment Helpers with effect from 01.05.1999. The Vigilance report contained the date of joining of service as contract labourers. After regularization of the service of the Members of the petitioner Union, the Board decided to prepare the seniority list and the Chief



W.P. No.19948 of 2014

Engineer prepared a seniority list taking into consideration the attendance / acquittance register. There is a vast difference in the date of joining between the list prepared by the Superintending Engineer and the list prepared by the Vigilance Cell. The seniority list has been prepared based on the vigilance cell, but the Management regularized the services of Members based on the attendance / acquittance Register. Challenging the same, the Members of the petitioner Union raised an industrial dispute and the Labour Court after hearing both sides and perusing the records, dismissed the industrial dispute by holding that the Vigilance report cannot be taken as proof for the date of appointment of contract labourers. Challenging the said order, the present Writ petition is filed.

3. The learned counsel appearing for the petitioner Union would submit that the Members of the petitioner Union were working as Contract Labourers in the 2nd respondent Management. After completion of 480 days, they demanded the Board to regularize the services as per law. Thereafter, the Management decided to regularize the services of the Members of the petitioner Union and the initial process of the Board for regularization was identification of Contract Labourers in all Power Stations through Vigilance Cell. The Vigilance Cell also submitted a report to the Board in respect of



W.P. No.19948 of 2012

324 Contract Labourers. Among all those persons, 106 persons were found to be genuine Contract Labourers and they were absorbed as Regular Work Establishment Helpers with effect from 01.05.1999. The report of the Vigilance Cell contained the date of joining of service as contract labourers. After regularization, the Board decided to prepare seniority list and the Chief Engineer / Personnel informed the Chief Engineers of all the four Power stations that the date of joining is the criterion for fixing the seniority. The Superintendent Engineer prepared the seniority list taking into account the attendance register and acquittance register. There is vast difference in the date of joining between the list prepared by the Superintendent Engineer and the list prepared by the Vigilance Cell. The Vigilance report was prepared based upon the orders of the Board and that report cannot be ignored or rejected. But the Labour Court rejected the report of the Vigilance cell and erroneously dismissed the industrial dispute petition. Therefore, the order of the Labour Court is liable to be set aside.

4. The learned counsel appearing for the 2nd respondent would submit that the Writ petitioner herein have raised an industrial dispute before the Labour Court, Chennai in I.D. No.6 of 2004. The petitioner's Union governed by Service Regulations for preparation of seniority list. As per the Service



W.P. No.19948 of 2012

Regulations, the date of joining the service of the Board will be reckoned for the purpose of seniority. Where more than one person joins the same post on the same date, different considerations may arise in the matter of reckoning the seniority and it could be based any rationale principle. Prior to 01.05.1999, the Management used to engage a large number of contract workmen through various Contractors and the question of absorption of the Contract labour is under dispute. As far as power generation units like Mettur Thermal Power Supply is concerned, the National productivity Council was engaged to determine the man power and based on a study, in cases where additional posts were called for were created.

4.1. As large number of contract workmen were absorbed on one and the same date i.e., on 01.05.1999, the question of adopting a proper basis in fixing the seniority agreed and the same Union claimed that date of entry in the service of the contractor should be reckoned based on the seniority. The Chief Engineer/ Personnel clarified that for reckoning the date of entry, the Acquittance Register maintained by the contractor and a copy available with the Board or Attendance Register are the documents to be considered. A provisional seniority list was prepared reckoning the date of entry in the service of the Contractor based on the available attendance register and



W.P. No.19948 of 2014

acquittance register. The claim of the Union is that they have produced certificates issued by the officials of the Electricity Board showing the date of entry as contract workmen and that seniority list should take into account such services. The seniority list prepared on 03.09.2003 has been acted upon and even promotions have been granted. The petitioners can claim seniority only from the date of appointment by the Board and they cannot claim from the date when the person is entered into service of Board as contract labour. Already 44 contract workmen who were appointed as Helpers, have been promoted as Fitter. Those persons also to be added as parties. Therefore, the Labour Court after considering all the aspects, has correctly dismissed the petition and hence the present Writ petition is liable to be dismissed.

5. Heard both sides and perused all the materials available on record.

6. In this case, there is no dispute that the Members of the petitioner's Union were absorbed as regular employees with effect from 01.05.1999. According to the petitioner, the seniority list has to be prepared based on the date of joining mentioned in the vigilance report submitted by the Vigilance department, but the seniority list was prepared based on the acquittance and attendance register. There is no reference for the vigilance report, as to how



W.P. No.19948 of 2012

they calculated the date of the entry into service and whether the workmen had worked continuously or not. The vigilance report was prepared for a particular purpose and that cannot be a basis to determine the date of joining of the workman into service. The Management has prepared a seniority list taking into account the attendance register and acquittance register, that is the basis to prepare the seniority list. The date of entry into service mentioned in the vigilance report cannot be taken as an authenticated document to prepare the seniority list. The attendance and acquittance registers are with the department. Therefore, the Labour Court has passed a reasoned order. The report of the vigilance department cannot be taken into account for preparing seniority list.

7. Moreover, it is an admitted fact that 44 contract laboureres were already promoted after absorption and they have not been added as parties in this case. It is also admitted fact that the seniority list was prepared for entire four thermal power stations, but these petitioners are working in the Mettur Thermal Power Station and without adding all the parties, who were absorbed on 01.05.1999, the combined seniority cannot be disturbed. Further, most of the workmen also retired on superannuation and they have not furnished the details of their status of seniority during their service period. In view of the



W.P. No.19948 of 2012

said discussions, the contention of the Writ petitioner cannot be accepted.

WEB COPY

8. Therefore, the order passed by the Labour Court is in order and the present Writ petition has no merits and is liable to be dismissed.

9. Accordingly, the Writ petition is dismissed. No costs.

23.01.2025

Index : Yes/No

Speaking order/non-speaking order

mjs

To

1. The Presiding Officer,
Tamil Nadu Industrial Tribunal, Chennai.

2. The Chief Engineer,
Mettur Thermal Power Station,
Tamil Nadu Electricity Board, Mettur Dam - 636 406.

P. DHANABAL, J.,

mjs



WEB COPY



W.P. No.19948 of 2012

W.P. No.19948 of 2012

23.01.2025