



W.P.No. 4843 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 4843 of 2010

and

M.P.No.1 of 2010

Management of  
NLC Indco Serve,  
Opp: Thermal Station,  
Neyveli - 607 807,  
Rep. by its Special Officer.

... Petitioner

Vs

1.The Presiding Officer,  
Central Government Industrial Tribunal Cum Labour Court,  
Sastri Bhavan, Chennai - 600 006.

2.The General Secretary,  
NLC Indo Serve Thozhilar Uzhiyar Sangam,  
Neyveli - 607 802.

3.The Chairman,  
Neyveli Lignite Corporation Limited,  
Neyveli.

4.K.Vedhamani  
5.T.Duraiarasan  
6.V.Sundaram  
7.T.Kaliyaperumal  
8.G.Mayakrishnan  
9.K.Govindharaj



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10.V.Padmanaban  
11.K.Selvakumar  
12.P.Jayapal

(Respondents 4 to 12 are impleaded as per the  
order of this Court dated 29.01.2025 in M.P.No.1 of 2012

... Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari Mandamus, calling for the records of the first respondent in I.D.Nos.81 to 99 of 2005 and quash its common award dated 16.09.2009.

For Petitioner : Mr.P.Raghunathan  
for M/s.T.S.Gopalan & Co

For R1 : Labour Court

For R2 : No appearance (notice served)

For R3 : Mr.N.Nithianandam

### **ORDER**

This writ petition has been filed challenging the common award of the Labour Court made in I.D.Nos. 81 to 99 of 2005, dated 16.09.2009.

2. By the said award, the reference made by the appropriate



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Government under Section 2(A) read with Section 10 of the Industrial Disputes Act, 1947 was answered by holding that the non-providing of employment to the concerned workmen by the petitioner management namely NLC Indco-Serve is not legal and justified and directed the petitioner management to provide employment to the workmen, also taking itself as their sponsoring authority of contract labour for Neyveli Lignite Corporation Limited, by suitably changing the policy and enlisting them also as a 5th category of eligible persons for engagement under the society.

3. The brief factual background in which the dispute arose is that 19 workmen involved in all these industrial disputes were working under various contractors who were licensed to supply labour to Neyveli Lignite Corporation Limited (the second respondent in all these disputes). These workmen continued to work under the contractors. While so, in order to alleviate grievances expressed by persons whose lands were taken for forming the mines for NLC and in reference to certain other contract employment issues, a co-operative society was formed following a peace committee meeting. The petitioner management, namely NLC Indco Serve was formed.



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As per the bye-law of the said co-operative society, it serves the following four categories of people:-

“5. As per byelaw 6 of the respondent society any individual who is over 18 years of age was entitled to become a member and preference would be given to the following category of person:

1. Dependent/wards of serving employees of NLC.
2. Dependent/ Wards of deceased employees or retired employees of the corporation.
3. Displaced persons consequent on the acquisition of lands, and
4. Persons who are already engaged and working under the contractors whose work is executed by the society.”

4. The policy adopted by the society for engaging members as contract labor to carry out the work of NLC is that when a private contractor's work is awarded to the society, the contractor's workers are engaged to perform that work. Only those workmen who are involved in the work subsequently, allotted to the society are taken as its workers. After that, they are placed on the rolls of NCL Indco Serve and considered for direct employment with Neyveli Lignite Corporation based on the seniority, vacancies and the scheme in place.

5. Under these circumstances, the grievance of these workmen was that



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despite enrolling as members of the co-operative society (NLC Indco Serve), they were not provided employment by the society. Therefore, they raised a dispute. Conciliation failed and the appropriate Government referred the matters with identical questions. For instance, in I.D.No. 81 of 2005, the following question was referred:-

**“I.D.No.81 of 2005**

Whether the action of the management of NLC Indco Serve is not providing employment to Sri N.Ranganathan is legal and justified? If not, to what relief he is entitled?”

6. Similarly, very same question is referred in all these industrial disputes. Since the matters were connected, these matters were taken up together by way of common inquiry. In the inquiry, one *N.Swamynathan*, the representative of the Union, was examined as *WW1* and *Exs.W1 to W11* were marked. On behalf of the management one *L.Santhanakrishnan* was examined as *MW1* and *N.Muthu* was examined as *MW2* and *Exs.M1 to M11* were marked.

7. The Labour Court then considered the case of the parties and found that, although four categories were mentioned, these 19 workmen could not



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be provided employment, considering that NLC has a policy of absorbing only employees of the society, NLC Indco Serve. The Labour Court opined that, apart from the four categories mentioned in the bye-law number 6, the society could amend its bye-laws/policy to create a fifth category, allowing employment for these persons under the new category. Aggrieved by the same, the present writ petition is filed by the management of the NLC Indco-Serve.

8. Heard, *Mr.P.Raghunathan*, the learned counsel appearing on behalf of the management.

9. *Mr.P.Raghunathan*, would submit that when the reference could not be answered in favour of the workmen, the Labour Court indulged in giving directions for amendment of the policy and created a new category to the workmen, which was beyond the scope of reference and also beyond its jurisdiction. Additionally, the other workmen working under various contractors, were not parties to this dispute. Granting relief to these 19 workmen would also affect the *inter se* seniority among the contract



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labourers. When the work itself is not entrusted to the society, it is not possible for the society to provide work for these workmen. In any event, these questions cannot be addressed in a reference under Section 2(A) of the Industrial Disputes Act, as it only concerns about non-employment and not with reference to providing work to a person. All of these workmen continued to be employed by their respective contractors.

10. Even though notices were served, none appeared on behalf of the trade union.

11. The Workmen themselves got impleaded in the Writ Petition as respondents 4 to 12. However, none appeared on behalf of the newly impleaded Workmen. Under these circumstances, the matter is decided by this Court on merits.

12. Firstly, it can be seen that when the bye-law of the petitioner's Society is only with reference to four types of Workmen, the trade union as well as the newly impleaded respondents 4 to 12, cannot claim that they



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should also be provided work by the Society. It is the case of the Society that if only the work of the contractor is in existence, it will engage the concerned Workmen. Admittedly, in this case, it is not the case of the Workmen that the work in respect of the contractor in which they were working is entrusted to the Society. Such being the case, the Society cannot be directed to provide work. There is no legal basis for issuing such a direction. In view thereof, the Labour Court erred in issuing such a direction to the petitioner management to alter its bye-law and provide work. Not providing work is not just in the bye-law alone, but unless the particular work is entrusted to the Society, the Society cannot provide them work. Needless to mention that these Workmen will be entitled to claim any other rights against the Management of NLC Limited, if they are so entitled. But as far as the present respondents and the manner in which the Central Industrial Tribunal had answered the reference by the impugned award is unsustainable.

13. In view thereof, this Writ Petition is allowed on the following terms,

(i) The award of the 1<sup>st</sup> respondent dated 16.09.2009 in I.D.Nos.81 to



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99 of 2005 shall stand quashed;

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(ii) No costs. Consequently, connected miscellaneous petition is closed.

29.01.2025

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Neutral Citation: Yes/No  
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To

1. The Presiding Officer,  
Central Government Industrial Tribunal Cum Labour Court,  
Sastri Bhavan, Chennai - 600 006.
2. The Chairman,  
Neyveli Lignite Corporation Limited,  
Neyveli.



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**D.BHARATHA CHAKRAVARTHY, J.**

nsI

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