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WP Nos. 5817 & 5818 of 2015



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-03-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP Nos. 5817 & 5818 of 2015

and

M.P.No.1 of 2015

WP No. 5817 of 2015

1. Central Organisation
of Tamilnadu Electricity Employees,
Shortly COTEE, Ennore Branch, Unit,
Rep. by its Secretary, Ennore, Chennai-
57.

Petitioner(s)

Vs

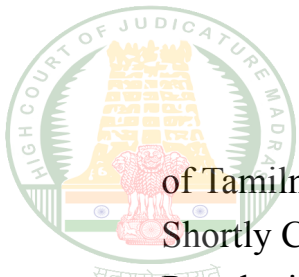
1. The Management
Ennore Thermal Power Station,
Tamilnadu Electricity Board, (Now
renamed as Tamilnadu Generation and
Distribution Corpn. Ltd.), Ennore,
Chennai-57.

2.The Presiding Officer
Industrial Tribunal, Chennai.

Respondent(s)

WP No. 5818 of 2015

1. Central Organisation



of Tamilnadu Electricity Employees,
Shortly COTEE, Mettur Branch, Unit,
Rep. by its Secretary, Mettur Dam,
Salem.

Petitioner(s)

Vs

1. The Management
Mettur Thermal Power Station,
Tamilnadu Electricity Board, (Now
renamed as Tamilnadu Generation and
Distribution Corpn. Ltd.), Mettur Dam,
Salem.

2. The Presiding Officer
Industrial Tribunal, Chennai.

Respondent(s)

WP No. 5817 of 2015

PRAYER

Calling for the records pertaining to the common award dated 28.08.2009 in I.D.Nos.30/2004, 66/2004, 6/2004 and 12/2005 and communicated to the petitioner Union by the Labour Department in their Letter No.Aa/404/2010 dated 23.07.2010, quash the same in so far as the award in I.D.No.30/2004 and consequently direct the 1st respondent to take the service rendered by the workmen from 08.08.1990 to 30.04.1999 as regular service along with their service after their absorption on and from 01.05.1999 for all purposes, with all consequential benefits, award costs.

WP No. 5818 of 2015

PRAYER

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In both W.P.'s

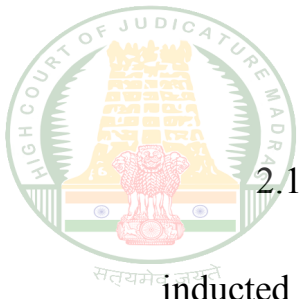
For Petitioner(s): V.Ajoy Khose

For Respondent(s): Mr. Anand Gopalan For
M/s.T.S.Gopalan and Co For R1
R-2 Labour Court

COMMON ORDER

Challenging the common Award (ID.Nos.30, 66 & 6 of 2004 and 12 of 2005), dated 28.08.2009 passed by the industrial Tribunal insofar as I.D.Nos.30 and 66 of 2004, wherein, the claim made by the workmen for regularization of their service for all the purposes from 08.08.1990 to 30.04.1999 has been rejected, the petitioner, viz., Central Organization of Tamil Electricity Employees (in short, COTEE) representing the workmen, has come forward with the present Writ Petitions.

2. The brief facts in common pertaining to the present Writ Petitions are as follows:



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2.1. The workmen in I.D.Nos.30 and 66 of 2004, who were initially inducted as contractor labourers in the year 1990 in various Circles and Units of TANGEDCO including the Ennore Thermal Power Stations (ETPS), subsequently, came to be absorbed as Helpers on and from 01.05.1999 onwards since they completed 480 days of continuous service. The grievance of the workmen is that since they had already reached the age of 50 years on the date of their absorption, they were not able to get pension and hence, they raised industrial disputes, claiming that their service rendered from 08.08.1990 to 30.04.1999 should be treated as regular service for all purposes including terminal benefits and pension.

3. The disputes raised by the present workmen, viz., I.D.Nos.30 and 66 of 2004 along with similar disputes raised by other set of workmen, were taken up for adjudication by the Tribunal, wherein, the following reference has been made, viz.,

- i) Whether the demand of the Union that the service rendered from 08.08.1990 by the contract labourers who were absorbed as Helpers in ETPS/MTPS with effect from



01.05.1999, shall be taken as regular service?

ii) To what relief they are entitled to?

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4. The Tribunal, on consideration of both oral and documentary evidence let in by both parties in various industrial disputes, viz., ID.Nos.30, 66 & 6 of 2004 and 12 of 2005, has passed the Common Award, dated 28.08.2009, dismissing all the I.Ds., holding that the claim made therein, was not justified. Hence the Writ Petitions.

5. The learned counsel for the petitioners submit that when the Board itself has abolished the contract labour system with effect from 01.05.1999 and absorbed the contract labourers working in all four Thermal Power Stations including ETPS with effect from 01.05.1999 and when such absorption was made by identifying the contract labourers, who were in service as on 05.01.1998 based on their length of service and seniority and only the workmen who have completed 480 days of service as on 05.01.1998, the second respondent / Tribunal ought to have ordered for regularisation of services of the contract labourers which they have rendered prior to the date of their



absorption, that is, prior to 01.05.1999, without doing so, rejecting the claim of the workmen, which is per se unsustainable.

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6. The learned counsel appearing for the first respondent / management submits that a similarly situated person has filed a writ petition before this Court in W.P.(MD).No.11604 of 2009 seeking to sanction 50% of his service through contractors to be taken for the purpose of calculation of qualified service for pension in terms of Rule 11 of the Tamil Nadu Pension Rules, 1978, however, the said writ petition was allowed vide order dated 27.02.2014. Challenging the same, the Tuticorin Thermal Power Station has filed a writ appeal before this Court in W.A.(MD).No.785 of 2015 and the same was allowed vide judgment dated 28.10.2015. Since the issue is covered by the aforesaid Division Bench judgement of this Court, the learned counsel for the respondent prayed for dismissal of the writ petitions.

7. Heard the learned counsel on either side.



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8. Admittedly, similarly situated persons have filed a writ petition before this Court in W.P.(MD).No.11604 of 2009 seeking to sanction 50% of service through contractors to be taken for the purpose of calculation of qualified service for pension in terms of Rule 11 of the Tamil Nadu Pension Rules, 1978, and the said writ petition was allowed, vide order dated 27.02.2014. Challenging the same, the Tuticorin Thermal Power Station has filed a writ appeal before this Court in W.A.(MD).No.785 of 2015 and the same was allowed vide judgement dated 28.10.2015.

9. . The dictum laid down by the Division Bench of this Court in the aforesaid decision supports the case of the petitioners. In view of the issue having been settled already and the present case falls squarely within the four corners of the said Division Bench decision, this Court is inclined to dismiss these Writ Petitions on the same lines by following the above Division Bench judgement. However, it is open to the petitioner to make a representation to the first respondent Board for grant of pensionary benefits.



10. With the above observation and direction, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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RAP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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2. The Management

Ennore Thermal Power Station, Tamilnadu Electricity Board, (Now renamed as Tamilnadu Generation and Distribution Corpn. Ltd.), Ennore, Chennai-57.

3. The Management

Mettur Thermal Power Station, Tamilnadu Electricity Board, (Now renamed as Tamilnadu Generation and Distribution Corpn. Ltd.), Mettur Dam, Salem.



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M.DHANDAPANI J.

RAP

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