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W.P.No.15263 and 15264 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON : 25.03.2025

PRONOUNCED ON: 29.04.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.Nos. 15263 and 15264 of 2020

and

WMP Nos. 9142 and 9148 of 2022

1. The Management / Superintending Engineer

Erode Generation Circle,

TANGEDCO

Uratchi Kottai, K.N.Palayam Post,

Bhavani Taluk, Erode District.

...1st Petitioner in both WPs

2. Superintending Engineer,

Hydro Generation,

Erode Generation Circle,

Mettur Dam – 1.

...2nd Petitioner in WP

15264/2020

3. Assistant Executive Engineer,

Mechanical, Mettur Dam Power House,

Erode Generation Circle,

Mettur Dam – 1

...3rd Petitioner in WP

15264/2020

4. Executive Engineer / BPH, CKR,

Berrage Power House,

Chikkanoor, Erode Generation Circle,

Mettur (Tk), Salem (Dt.)

...4th Petitioner in WP 15264/2020



W.P.No.15263 and 15264 of 2020

Vs.

WEB

1.C.Sellamuthu,
S/o. Chttiyappan,
3/86, Thippampatti Kattu Valavu,
Palamarathukadu,
Konur West Post,
Mettur Dam – 4.

....Respondent in WP 15263/2020

2. N.Udhayakumar
S/o. V.Narayanan,
14/19, Ramamoorthy Nagar,
Mettur Dam R.S., Salem District.1st Respondent in WP 15264/2020

3. The Management
Detective & Security Service Bureau,
Rep. by its Managing Director,
Service Bureau,
Ammappettai, Bhavani Tk.,
Erode District.2nd Respondent in WP 15264/2020

4. The Management
M/s. SDB Security Services,
9/4, 1st Cross Road,
T.T.K.Road, Alwarpettai
Chennai – 28.3rd Respondent in WP 15264/2020

5. The Management,
M/s. Reliance Security Services,
P.O.Box No.28, Ellis Nagar,
Madurai – 104th Respondent in WP 15264/2020

Prayer in W.P.No. 15263 of 2020

To issue a Writ of Certiorari, calling for the records of the Labour Court, Salem in I.D.No.85/2013 and quash its award dated 11.07.2019 and pass such further or other orders as this Hon'ble Court may deem fit and necessary in the circumstances of the case.



W.P.No.15263 and 15264 of 2020

Prayer in W.P.No. 15264 of 2020

To issue a Writ of Certiorari, calling for the records of the Labour Court, Salem in I.D.No 120/2013 and quash its award dated 30.09.2019 and pass such further or other orders as this Hon'ble court may deem fit and necessary in the circumstances of the case.

Prayer in WMP No. 9142 of 2022 (in WP No. 15263/2020)

To permit the Petitioner / Respondent / Respondent to withdraw the deposited amount of Rs.2,50,000/- (Rupees Two Lakhs and fifty thousand only) before Labour Court, Salem in I.D.No. 85/2013 deposited by the Respondent / Petitioner by this Hon'ble Court order in WMP No. 19091 of 2020 in W.P.No.15263 of 2020 on 29.10.2020.

Prayer in WMP No. 9148 of 2022 (in WP No. 15264/2020)

To permit the Petitioner / Respondent / Respondent to withdraw the deposited amount of Rs.2,50,000/- (Rupees Two Lakhs and fifty thousand only) before Labour Court, Salem in I.D.No. 120/2013 deposited by the Respondent / Petitioner by this Hon'ble Court order in WMP No. 19093 of 2020 in W.P.No.15264 of 2020 on 29.10.2020.

Appearance of Parties

For Petitioners : Mr.Anand Gopalan, Advocate
(in both WPs) For M/s. T.S.Gopalan & Co

For Respondent 1 : Mr.L.Chandrakumar, Advocate
(in both WPs)

Respondents 2 and 4 : Not served



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(in WP No.15264/2020)

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Respondent 3

(in WP No.15264/2020)

: No appearance

COMMON JUDGMENT

Heard.

2. In both writ petitions, the 1st Petitioner is the Superintending Engineer, Erode Generation Circle, TANGEDCO. In the 1st writ petition, the challenge is directed against the award passed by the Labour Court, Salem, in I.D. No. 85 of 2013 dated 11.07.2019, whereby the Labour Court ordered the reinstatement of the contesting 1st Respondent as a Watchman and directed the payment of back wages from 25.05.1999, the date of his dismissal from service.

3. The 2nd writ petition is filed against the award of the Labour Court, Salem, in I.D. No. 120 of 2013 dated 30.09.2019, by which the dismissal of the contesting 1st Respondent with effect from 09.04.1992 was set aside, and TANGEDCO was directed to reinstate him with back wages, continuity of service, and other attendant benefits. Both writ petitions were listed for



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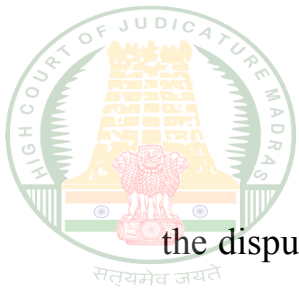
admission on 29.10.2020, and while ordering notice to the Respondents, this

WEB COPY Court also directed TANGEDCO to deposit a sum of Rs.2.5 lakhs in each writ petition with the Labour Court to the credit of the respective industrial disputes.

4. The Petitioner, TANGEDCO, filed a memo of compliance dated Nil (filed before this Court on 11.12.2020 in S.R. No. 24847 of 2020), stating that a sum of Rs.2.5 lakhs had been deposited in each industrial dispute before the Labour Court. The contesting Respondents entered appearance and filed two miscellaneous petitions seeking disbursement of the amounts deposited. However, no orders have been passed on those applications.

5. The learned counsel for TANGEDCO submitted that, in the 1st writ petition, the contesting Respondent (C. Sellamuthu) raised an industrial dispute only on 08.07.2013, challenging his dismissal pursuant to the letter dated 21.12.2000. Similarly, in the 2nd writ petition, the contesting Respondent (N. Udhayakumar) questioned his termination from service with effect from 09.04.1992 but chose to raise a dispute under Section 2A(2) of the Industrial Disputes Act, and a failure report was issued on 02.12.2012.

6. The learned counsel further relied on several judgments to contend that



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the disputes were barred by limitation and were not maintainable under Section

2A(2) of the Industrial Disputes Act. The three judgments referred to are as

follows:—

- 1.U.P.SRTC Vs. Ram Singh, 2008 (17) SCC 627
- 2.Asstt. Executive Engineer, Karnataka Vs. Shivalinga, 2002 (10) SCC 167
- 3.Prabhakar Vs. Sericulture Deptt. 2015 (15) SCC 1
- 4.Asstt. Engineer, CAD Vs. Dhan Kunwar, 2006 (5) SCC 481
- 5.Management of Ford India Vs. Presiding Officer, 2020 (3) LLJ 491 (Mad)
- 6.M/s. Hanon Automative Systems Private Limited Vs. Presiding Officer,
W.P.No. 16755 o 2004 dt. 18.9.2019
- 7.Prince Packianathan Vs. The General Manager, Tamil Nadu Transport
Corporation, Nagercoil Division, W.P.(MD) No.15552 of 2015 dt. 28.8.2015
- 8.ITC Infotech India Ltd Vs. Venkataramana Uppada, 2016 SCC ONLine Kar
538
- 9.K.Settu Vs. Assistant Engineer, Office of Tamil Nadu Electricity Board, 2019
SCC OnLine Mad 6562

7. Except for the third case (Prabhakar's case), the first four cases cited dealt with the issue of delay and laches in approaching the Labour Court. Similarly, in the seventh and ninth cases, although the disputes were raised by the workmen under Section 2A of the Industrial Disputes Act, they were rejected on the ground of delay and laches. Initially, these two writ petitions were directed to be heard along with W.P. No. 1394 of 2020, where the same



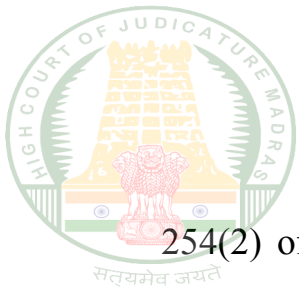
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petitioner, TANGEDCO, was contesting the award passed in favour of A.K.

WEB SENTHIL Kumar in I.D. No. 88 of 2013 dated 12.07.2018. However, the matters were subsequently de-linked and argued separately before another learned Judge. In W.P. No. 1394 of 2020, for the first time, the learned Judge, after considering the amendment to Section 2A introduced by the Industrial Disputes (Amendment) Act, 2010, passed the following order dated 13.12.2023:—

“It is clear from Section 2A of the ID (Amendment) Act, 2010 the application referred to in sub-section 2 shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service and in the instant case though it is admitted by the respondent that he was orally terminated from service on 02.05.2008, he did not file the petition within three years and therefore, the order passed by the Labour Court is totally perverse.”

8. Although there was a specific order of this Court dated 11.10.2022 directing that the present writ petitions be heard along with W.P. No. 1394 of 2020, that writ petition alone was subsequently separated and dismissed on the ground of limitation. However, before the learned Judge, the distinction between Section 2A(2) as amended by the Tamil Nadu Legislature in 1988 and Sections 2A(2) and 2A(3) as amended by the Central Act in 2010 was not brought to notice. Further, the argument that the State amendment, having received the assent of the President, would prevail in the State under Article



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254(2) of the Constitution was also not raised. Importantly, the fact that the State amendment did not impose any limitation period, unlike the Central amendment, was not brought to the attention of the Court.

9. The learned counsel nevertheless sought to rely on the judgment of the Supreme Court in **Prabhakar v. Joint Director, Sericulture Department**, reported in (2015) 15 SCC 1. However, all these issues were considered by this Court in W.P. No. 2955 of 2020 dated 28.02.2025 (**R. Kariamal v. The Management of Raj T.V. Network Ltd.**), wherein the following findings were rendered:—

“39. Having held that the State Amendment (T.N. Act 5 of 1988) applies to this case, the question of limitation does not arise. On the contrary, the workman has diligently complied with the procedure prescribed under Section 2A(2) as applicable in Tamil Nadu. Aware of this legal position, the counsel for the respondent relied on the Supreme Court’s decision in **Prabhakar v. Joint Director, Sericulture Dept. & Anr.**, 2015 (15) SCC 1, to argue that even in cases of reference under the Industrial Disputes Act, delay and laches could be considered as relevant factors. However, in the same judgment, the Supreme Court made the following observation:

“40.Take, for example, a case where the workman issues notice after his termination, questioning the termination and demanding reinstatement. He is able to show that there were discussions from time to time and the parties were trying to sort out the matter amicably. Or he is able to show that there were assurances by the Management to the effect that he



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would be taken back in service and because of these reasons, h did not immediately raise the dispute by approaching the labour authorities seeking reference or did not invoke the remedy under Section 2A of the Act. In such a scenario, it can be treated that the dispute was live and existing as the workman never abandoned his right. However, in this very example, even if the notice of demand was sent but it did not evoke any positive response or there was specific rejection by the Management of his demand contained in the notice and thereafter he sleeps over the matter for number of years, it can be treated that he accepted the factum of his termination and rejection thereof by the Management and acquiesced into the said rejection.”

40. Therefore, it cannot be said that the dispute raised by the workman is invalid on the ground of applicability of limitation under Section 2A(3) of the Industrial Disputes Act. The same cannot be accepted. At most, any delay or inaction on the part of the workman might have a bearing on the nature of relief to be granted, but it does not render the dispute itself as barred by limitation Accordingly, it must be held that the dispute is not barred by limitation, as Section 2A(2) of the State Amendment—which applies to Tamil Nadu—does not prescribe any limitation period. To this extent, the Labour Court erred in passing the impugned award.”

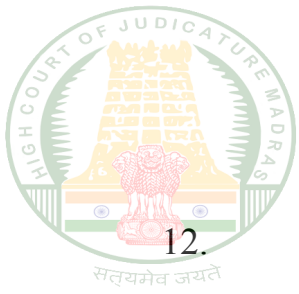
10. Before the Labour Court, the Petitioner, TANGEDCO, merely stated in their counter statements in both industrial disputes that the workmen were guilty of delay in approaching the Labour Court and, therefore, were not entitled to any relief. However, a perusal of the impugned awards reveals that no serious submissions were made on the issue of limitation during the proceedings before the Labour Court. Significantly, the plea of limitation,



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based on Section 2A(3) as inserted by the Central Amendment Act, 2010, was raised for the first time only in W.P. No. 1394 of 2020 and that too without any specific pleading. Accordingly, the contention regarding limitation must fail—not only due to the failure to raise or argue the issue before the Labour Court, but also in view of the reasoning adopted by this Court in the Raj TV case (cited supra).

11. It was further contended that TANGEDCO ought not to have been impleaded as a party before the Labour Court, as in both industrial disputes, the workmen were employees of the contractor. In support of this contention, reliance was placed on the judgments cited as Items 5 and 6 (tabulated above), wherein a learned Judge deleted the principal employer from the array of parties. Reference was also made to the decision of the Supreme Court in **BHEL v. Anil**, reported in (2007) 1 SCC 610, wherein it was held that the question of a contract being a sham or nominal can be raised only in a collective dispute under Section 2(k) of the Industrial Disputes Act. It was argued that, in the present cases, both industrial disputes emanate from disputes raised by individual workmen under Section 2A of the Act, and therefore, the awards are liable to be set aside.



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12.

However, it must be noted that a batch of writ petitions in

W.P.Nos. 21324 of 2011, etc. Batch, dated 18.01.2024, involving TANGEDCO

under similar circumstances came up for consideration before a Division Bench

comprising the Hon'ble Chief Justice and Bharatha Chakravarthy.J, wherein the

challenge to several similar awards passed by the Labour Court was dismissed.

The Division Bench held as follows:—

“24.It can be seen that with exception of W.P.No.30984 of 2019, in all the other Writ Petitions, the very same award at the instance of the other claimants has already been directed to be implemented. The same is depicted in the following tabular column:-

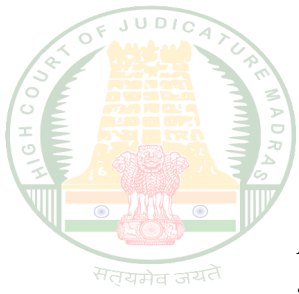
Sl. N o.	Writ Petitions	Reference of the Award challenged	Earlier order directing implementation
1	W.P.No.30983/2019	E/6152/05 dated 04.07.2006	W.P.No.22657/2011 dated 10.10.2011
2	W.P.No.30998/2019	E/8448/05 dated 12.04.2007	W.P.No.22657/2011 dated 10.10.2011
3	W.P.No.30284/2019	E/3360/06 dated 04.07.2006	W.P.No.22446/2011 dated 28.06.2012
4	W.P.No.30279/2019	E/2455/06 dated 27.06.2006	W.P.No.7368/2011 dated 31.03.2011 W.P.No.13458/2011 dated 15.09.2011
5	W.P.No.30290/2019	E/2211/06 dated 28.06.2007	W.P.No.22446/2011 dated 28.06.2012
6	W.P.No.30995/2019	E/8120/02 dated	W.P.No.22657/2011 dated 10.10.2011



7	W.P.No.31055/2019	04.07.2007 E/3125/07 dated 06.08.2007	W.P.No.7368/2011 dated 31.03.2011 W.P.No.13458/2011 dated 15.09.2011
8	W.P.No.31003/2019	E/6680/05 dated 18.05.2007	W.P.No.78 & 97/2012 dated 28.08.2019
9	W.P.No.30987/2019	E/2110/02	Except for 6 th respondent IOL order was implemented for other workmen

25. Already by the Judgment dated 27.03.2012 in W.P.No.7638 of 2012 the Learned Single Judge has held that so long as the order directing the implementation of the award is in force, subsequently, the very award cannot be challenged by way of another Writ Petition. The said view has been affirmed by the Division Bench and the SLP's filed by TANGEDCO have already been dismissed. Therefore, in the present case, there is no question of referring to the other Judgments and views taken in other matters, when the rights of parties having stood already determined in respect of the self same awards. The Judgment inter-parties in respect of the self same awards have to be followed. There cannot be one Judgment directing the award to be implemented and dismissing the challenge to the award and another Judgment holding that the workmen should approach the Industrial Tribunal / Labour Court. As a matter of fact, even in the Judgment cited by the learned counsel appearing on behalf of the TANGEDCO in [Mary Pushpam](#)'s case (cited supra), it has been held as follows:-

“23. In the current case, as previously mentioned, the High Court's judgment from the initial round dated 30.03.1990, noted that the disputed property included 8 cents of land, not just the building structure on it. As per the Doctrine of Merger, the judgments of the Trial Court and the First



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Appellate Court from the first round of litigation are absorbed into the High Court's judgment dated 30.03.1990. This 1990 judgment should be regarded as the conclusive and binding order from the initial litigation. Following the principles of judicial discipline, lower or subordinate Courts do not Writ Petition No.21324 of 2011 etc., Batch have the authority to contradict the decisions of higher Courts. In the current case, the Trial Court and the High Court, in the second round of litigation, violated this judicial discipline by adopting a position contrary to the High Court's final judgment dated 30.03.1990, from the first round of litigation.”

26. Thus, when the rights of the parties conclusively determined in the earlier rounds by this Court and the repeated SLP's being dismissed, the contention that the parties are to be relegated to Labour Court/Industrial Tribunal cannot be sustained.”

13. In view of the above, this Court is not inclined to interfere with the two impugned awards, either on the ground of limitation or on merits. Accordingly, both writ petitions stand dismissed. Consequently, the two pending miscellaneous petitions are also dismissed. However, there shall be no order as to costs. It is further clarified that the amounts deposited before the Labour Court pursuant to the interim orders of this Court may be withdrawn by the respective workmen, who shall also be entitled to claim the balance amount and enforce the awards in the manner known to law.

29.04.2025



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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

To:

The Presiding Officer,
Labour Court, Salem
(with records)

DR. A.D. MARIA CLETE, J

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and
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