

W.P. No. 19142 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 18.03.2025
PRONOUNCED ON : 25.03.2025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

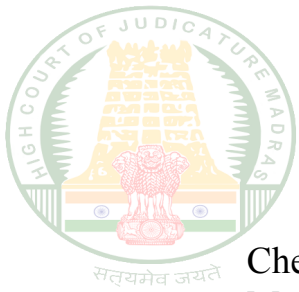
W.P.No. 19142 of 2020
and
W.M.P. No. 23713 of 2020

Tamil Nadu General Workers Union
Chennai Airport Contract Workers Unit,
House Keeping Division,
Regn.No.289 / CPT
K.T.K.Thangamani Illam,
2/1, Kovur Vaidyanathan Street,
Chintadripet,
Chennai – 600002.

...Petitioner

Vs.

- 1 . Government of India
Rep. by its Secretary,
Ministry of Labour and Employment Department,
Rafi Marg, New Delhi.
2. The Assistant Labour Commissioner (Central)
O/o. The Deputy Chief Labour Commissioner (Central),
No.4, Haddows Road,
Shastri Bhavan,
Chennai – 600 006.
3. Airports Authority of India,
Rep. by its Airport Director,



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Chennai Airport,
Meenambakkam,
Chennai – 600027.

4. BVG India Limited,
Rep. by its Manager,
3/20, Balaraman Garden Road,
Parthasarathy Nagar,
Manapakkam,
Chennai – 600 116.

5. Updater Services (P) Ltd
Rep. by its Manager,
No.2/302/A, UDS Salai, Off.Old Mahabalipuram Road,
Thoraipakkam,
Chennai – 600 097.

6. Service Master Clean,
Rep. by its Manager,
(AN SIS Group Enterprises)
3rd Floor, Salman SVP Arcot,
333/188, Arcot Road,
Kodambakkam,
Chennai – 600024.

...Respondents

Prayer in W.P.No. 19142 of 2020

To issue appropriate orders or Directions and more particularly a Writ in the nature of Declaration, declaring e-Tender Document issued by the 3rd respondent in respect of Mechanical Environmental Support Services (Up-Keeping) of T4 International Terminal Complex and T3 (Only Washrooms) at Chennai International Airport, Chennai for a period of 24 months and e-Tender document in respect of Mechanized Environmental Support Services (Up-Keeping) for Ancillary Buildings &



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their Allied Areas at Chennai Airport, without protecting the employment of the members of the petitioner union as illegal, arbitrary and contrary to law and consequently direct the respondents to retain the services of the members of the petitioner whose names are given in the Annexure to the Writ Petition as retained even when the contractor change and till the outcome of the dispute No.M8(15)/2016-B3 and dispute No.M8(36)/2018-B4 raised by the petitioner union regarding regularization of the services of the members of the petitioner union and pass such other orders or directions as this Hon'ble Court may deem fit in the circumstances of the case, award cost.

Prayer in WMP

To grant interim injunction restraining the respondent No.3 to 6 from discontinuing the employment of the employees concerned in this writ petition, whose names are given in the annexure to the writ petition, in any manner pending disposal of the writ petition.

Appearance of Parties:

For Petitioner : M/s. Balan Haridas and
R.Kamatchi Sundaresan, Advocates

For Respondent 1 & 2 : Mr.Madhana Gopal Rao, Senior Central
Govt. Standing Counsel.

For Respondents 3 and 6 : Ms.A.Arul Mary, Advocate
for Father Xavier Associates



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For Respondent 5

: Mr.S.Velusamy, Advocate

For Respondent 4

: No appearance.

J U D G M E N T

Heard.

2. The Petitioner is a trade union representing 265 out of 534 employees engaged in housekeeping duties at both the domestic and international terminals of Chennai Airport, which is maintained by the 3rd Respondent. It is claimed that these employees have been serving for periods ranging from 3 to 10 years. Based on operational requirements, they are assigned duties at either the domestic or international terminal. Their responsibilities encompass various tasks, including 22 specific types of work detailed in Paragraph 3 of the affidavit. It is further claimed that these tasks are essential and continuous in nature. Ensuring quality facilities for passengers and crew remains a primary obligation of the Airport Authority of India.

3. The Petitioner Union contends that, rather than employing workers

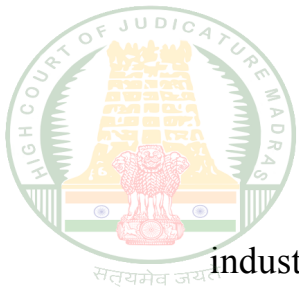


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on a permanent basis for tasks of a perennial nature, the 3rd Respondent has entered into a contract with the 4th Respondent, which is alleged to be sham and merely nominal. Under this arrangement, the 4th Respondent supplies manpower to carry out the housekeeping work. The Petitioner asserts that the contract between the 3rd and 4th Respondents is a deliberate attempt to circumvent legal obligations and deny housekeeping employees the benefits entitled to permanent workers.

4. It was submitted that the employees receive only meager wages without any leave benefits or other entitlements. They have worked for over 480 days within a span of 24 calendar months, with their work being directly supervised by officials of the 3rd Respondent. The 4th Respondent is alleged to be merely a name lender. The Petitioner Union raised an industrial dispute through a letter dated 14.09.2018, seeking the absorption of these employees into the service of the 3rd Respondent. The 2nd Respondent, Commissioner, initiated conciliation proceedings, and the matter remains pending.

5. Upon learning of the Petitioner Union's attempt to raise an



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industrial dispute, the 3rd Respondent sought to terminate the services of the housekeeping workers, thereby rendering the dispute untenable. In response, the Petitioner Union filed W.P. No. 30717 of 2016 before this Court. Consequently, this Court issued the following interim order:

“Order: These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of Mr.Balan Haridas, Advocate for the petitioner in both the petitions and of Mrs.S.Meenakumari Standing Counsel for 1st Respondent in both the petitions the court made the following order:-

Mrs.S.Meenakumari, learned Standing Counsel takes notice for the 1st Respondent.

Notice to respondents 2 to 4 returnable by 12.9.2016.

Private notice is also permitted.

2. Since conciliation proceedings are pending before the 2nd respondent, respondents/authority shall maintain status-quo as on date.”

6. Meanwhile, the 2nd Respondent, the Conciliation Officer, issued a notice dated 14.09.2018 and commenced conciliation proceedings. Apprehending that the 3rd Respondent might terminate the services of the housekeeping staff, the Petitioner Union filed W.P. No. 24802 of 2018, seeking a direction restraining the contractor (R4 herein) and Service Master Clean from altering the service conditions of its members



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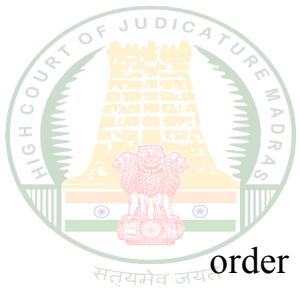
until the Conciliation Officer submits a failure report or the parties reach a settlement and directing the 1st Respondent, Union of India, to refer the dispute for adjudication. In the Miscellaneous Petition, this Court, by order dated 20.09.2018, issued the following direction:

“The writ petition is filed with a cluster of prayers, which cannot be dealt with at the same time. However, learned counsel for the petitioner union seeks limited relief of giving protection to 89 employees (whose list is furnished in the letter dated 14.09.2018) by restraining the respondents from dis-engaging their services. The General Secretary of the Union has written a letter to the fifth respondent, expressing the willingness of 89 employees to work under the fifth respondent instead of the present contractor / fourth respondent.

2. Under such circumstances, apprehension is expressed by the 89 employees that their services are likely to be disengaged. Having regard to the conciliation proceedings initiated, there shall be an order of injunction restraining the fourth and fifth respondents from disengaging the services of the 89 employees for a period of four weeks.

Mr.J.Madhanagopala Rao, takes notice for the first and second respondents. Notice to the other respondents returnable by 01.10.2018. Private notice permitted.”

7. Upon learning that the conciliation proceedings had ended in failure and that the 2nd Respondent had submitted a report dated 05.12.2019 to the 1st Respondent, the Government of India, the writ petition and the miscellaneous petition were dismissed as infructuous by



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order dated 10.01.2022. The order reads as follows:

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“The prayer sought for in the present writ petition has become infructuous since the dispute that was pending before the Assistant Labour Commissioner (Central) had ended in a failure, vide failure report dated 05.12.2019 and the same has been forwarded to the appropriate Government. In case no further proceedings have been initiated under Section 10 of the Industrial Disputes Act, the appropriate Government shall endeavour to do so at the earliest, in any event within a period of three months from the date of receipt of a copy of this order.

Accordingly, this Writ Petition stands dismissed as infructuous. No costs. Consequently, connected miscellaneous petitions are closed.”

8. Subsequently, W.P. No. 30717 of 2016, along with the miscellaneous petitions, was also closed, granting certain interim protection. The order dated 19.07.2023 states as follows:

“5. This Court is of the opinion that since the Charter of Demand dated 25.07.2016 is yet to be considered by the third respondent, this Court feels that ends of justice would be met and it would be suffice that the third respondent / Airports Authority of India is directed to consider the Charter of Demand submitted by the petitioner Union on 25.07.2016 and consider their case on merits and in accordance with law. In any event, the third respondent / Airports Authority of India shall come to a conclusion and pass final orders on the Charter of Demand dated 25.07.2016 within a period of eight weeks from the date of receipt of a copy of this



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order. Till such time, the third respondent / Airports Authority of India shall not venture into any action altering the service conditions of the members of the petitioner Union. The status quo as on today shall continue till the disposal of the Charter of Demand by the third respondent / Airports Authority of India.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed”

9. More than one and a half years have passed since the direction issued by the learned Judge on 19.07.2023, yet the 3rd Respondent, Airport Authority, has not filed a counter in the present case. Although the counsel for the 3rd and 6th Respondents submitted a brief note along with W.P. No. 19142 of 2020, it bears no relevance to the matter at hand. The note pertains to conciliation proceedings in connection with a different contract in W.P. No. 2849 of 2020 and references an MoU signed on 23.08.2017 between the same Petitioner Union and M/s. Ratna Engineering and M/s. Godrej Efacec – Southern Region.

10. In any case, the 1st Respondent, Government of India, Ministry of Labour, has not taken any action on the failure report submitted by the 2nd Respondent on 05.12.2019 in M.8(36)/2018-B4. Furthermore, no counter affidavit has been filed, and the matter has remained pending for



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the past five years.

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11. Under these circumstances, although the original prayer in the writ petition sought a direction to retain the services of the employees listed in the annexure until the resolution of the dispute, it is deemed appropriate to direct the 1st Respondent to refer the dispute for adjudication by the Central Government Industrial Tribunal-cum-Labour Court, Chennai, within four weeks from the date of receipt of this order. Pending such a reference, the protection order passed in W.P. No. 30717 of 2016, dated 19.07.2023, shall remain in force. Accordingly, W.P. No. 19142 of 2020 is allowed to the extent indicated above. No costs. Consequently, the Miscellaneous Petition in WMP No. 23713 of 2020 is also closed.

25.03.2025

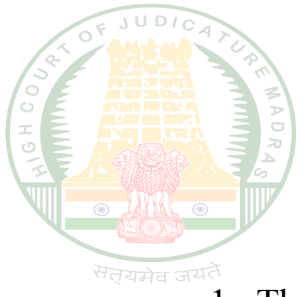
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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

To



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1. The Secretary to Govt.,
Ministry of Labour and Employment Department,
Govt. of India,
Rafi Marg, New Delhi.
2. The Assistant Labour Commissioner (Central)
O/o. The Deputy Chief Labour Commissioner,
No.4, Haddows Road,
Shastri Bhavan, Chennai – 600 006.



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DR. A.D. MARIA CLETE, J

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Pre-Delivery Judgment made in
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and
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