



W.A.(MD).Nos.318 to 327 and 329 to 332 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD).Nos.318 to 327 and 329 to 332 of 2020

W.A.(MD).No.318 of 2020

R.Chandrasekaran

... Appellant/Petitioner

Vs.

The General Manager (HR),
Bharat Heavy Electricals Limited,
(A Govt. of India undertaking),
High Pressure Boiler Plant,
Tiruchirappalli - 620 014.

... Respondent/ Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.(MD).No.15810 of 2012 dated 19.11.2019 and allow the Writ Appeal as prayed for.

For Appellant : M/s.D.Geetha

For Respondent : Mr.A.V.Arun

(In all cases)



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COMMON JUDGMENT

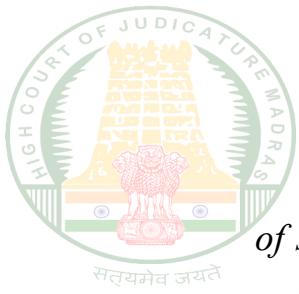
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(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The writ appellants herein joined Bharat Heavy Electricals Limited (BHEL), Trichy, originally as apprentices and later on, they were working as casual labourers (NMR) from the year 1985 onwards. In the year 1992, they filed a petition under Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen Act), 1981. The applications were allowed vide order dated 22.12.1993. Challenging the same, the Management filed Writ Petitions before the Madras High Court. The Writ Petitions were allowed. The order of the Permanency Authority was set aside and the matters were remitted back. Aggrieved by the same, the workmen (including the appellants) filed W.A.Nos.312 and 313 of 1995. The Writ Appeals were disposed of on 05.11.1997 in the following terms:

“26. In view of the observations made above, what is required to be determined by the authorities is not the question what Hon'ble Single Judge with respect posed but the following questions, (i) whether the appellants have worked for 480 days in preceding 24 calender months; (ii) whether the interrupted period

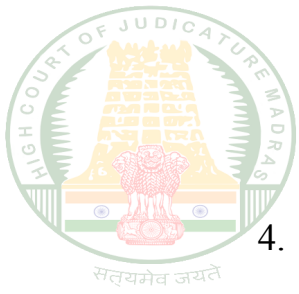


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of service, if any, or cessation of work if any, brought about is an unfair labour practice. Keeping in view the observations made in the earlier part of the Judgment, if the answer is in affirmative, the worker would be entitled to the conferment of the status of permanent employee with effect from the date of termination of service with all other consequential reliefs flowing from such a declaration. The second respondent is directed to determine the above referred questions within three months, from the date of receipt of a copy of this Judgment, after affording an opportunity of being heard to both the parties.”

3. Pursuant to the said order of remand, the Authority under the Permanency Act took up the matter and once again allowed the same vide order dated 05.07.1999 in the following terms:

“In the light of the foregoing the plea of the applicants are genuine and appropriate within the scope of law and as such they are entitled for the statutory benefits incorporated in said Act. The answers for the two questions put forth by the High Court of Madras are affirmative and hence all the applicants are entitled to the conferment of permanent status with effect from the date of termination of service with all other consequential relief. Accordingly it is hereby directed the respondent to issue orders for conferring permanent status to all the applicants/petitioners with effect from date of termination of service with all other consequential relief.



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4. Thereafter, the appellants herein represented to the Management, requesting that the order of the Authority under the Permanency Act need not be challenged before the Court and that they could be issued with the orders of appointment; they agreed that the appointments can be considered as fresh appointments. Copies of the letters written by the appellants have been enclosed in the typed set of papers. Thereafter, the Management, vide communication dated 23.09.1999, proposed to appoint the appellants herein as Fitter Grade-IV. It was specifically mentioned that the services of the appellants in the Company will start from the date when they joined duty. In other words, the service of the appellants was to be treated as a fresh service. Thereafter, the appellants submitted letters before the Authority under the Permanency Act and the said Authority, vide communication dated 24.09.1999 called upon the management to appoint the appellants as per the letters offering appointment. Thereafter, formal appointment orders dated 16.11.1999 were issued to the appellants herein.

5. But, four workmen, namely, N.Kanakaraju, C.Arokia Aruldass, S.Yoganantham and S.P.Ramachandran wanted the Authority's order to be implemented in letter and spirit. They were not given employments as Fitter Grade-IV. Hence, they filed W.P.No.1006 of 2000 for directing the Management



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to provide permanent employment and other attendant benefits in terms of the order of the Authority under the Permanency Act issued on 05.07.1999. The Management challenged the order of the Authority by filing W.P.No.15347 of 2000. Both the Writ Petitions were taken up together. Vide order dated 23.12.2009, the learned Single Judge allowed the Writ Petition filed by the workmen and dismissed the Writ Petition filed by the Management.

6. The said order became final as it was not put to challenge by the Management.

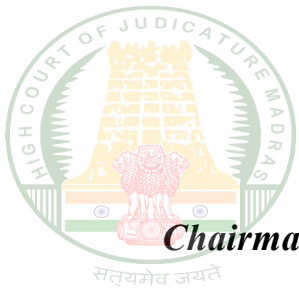
7. Three years thereafter, the appellants herein also wanted the very same treatment to be extended to them. However, the Management did not accede to their request. Hence, they filed W.P.(MD).Nos.15799 to 15813 of 2012. The learned Single Judge, vide order dated 19.11.2019, dismissed the Writ Petitions. Aggrieved by the same, these Writ Appeals have been filed. One R.Rangarajan, who was one of the writ petitioners, is said to have passed away.

8. The learned counsel for the appellants reiterated all the contentions set out in the grounds of appeal and called upon this Court to set aside the order of the learned Single Judge and grant relief as prayed for.



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9. Per contra, the learned counsel appearing for the Management strongly supported the order passed by the learned Single Judge. He pointed out that the appellants were rightly non-suited on the ground of laches and estoppel. His core contention is that after the Authority under the Permanency Act passed the order in favour of the workmen, the Management was weighing the option to challenge the same. Because the appellants herein approached them and requested the Management to give a quietus, the Management did not challenge the order as far as the appellants were concerned. To this extent, the Management had changed its position and thus, the principle of estoppel would definitely operate. He also added that the appellants were fence-sitters unlike the other four similarly placed workmen who filed Writ Petition before the High Court in the year 2000 itself. The said Writ Petition was allowed in the year 2009. Three years thereafter, the present round of litigation was commenced. The learned counsel also added that after the Authority under the Permanency Act passed the original order, another order incorporating the subsequent developments was passed and therefore, this aspect of the matter ought not to be lost sight of. He placed reliance on the decisions of the Hon'ble Supreme Court in the case of *State of Orissa and another Vs. Mamata Mohanty* reported in (2011) 3 SCC 436 and *R.Muthukumar and others Vs.*



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Chairman and Managing Director, TANGEDCO and others reported in 2022

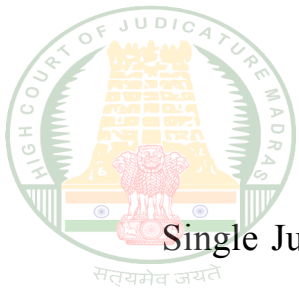
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SCC OnLine SC 151. He called upon this Court to sustain the impugned order of the learned Single Judge and dismiss the Writ Appeals.

10. We carefully considered the rival contentions and went through the materials on record.

11. The learned counsel for the Management is undoubtedly right in characterizing the writ petitioners as fence-sitters. He is equally justified in arguing that the principle of estoppel to some extent would operate against the workmen.

12. Even though the contentions of the learned counsel for the Management are undoubtedly attractive, we cannot lose sight of the fact that the appellants herein are after all workmen, who had joined service of BHEL at the lowest grade. After completing 480 days in a calendar of 24 months, they had filed petitions before the Authority under the Permanency Act. They had succeeded. During the pendency of the proceedings before the Authority under the Permanency Act, they were also disengaged on 31.03.1993. They lost before the learned Single Judge in the Writ Petition, in the sense, the learned



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Single Judge set aside the order of the Authority and remanded the matter for fresh consideration. Aggrieved by the same, they went before the Division Bench. Their Writ Appeal was disposed of in the year 1997 and the order of remand was confirmed; only the questions for consideration by the Authority were re-formulated. The Authority gave its verdict only in the year 1999. By then, for six years, the appellants had been out of service. They did not have the strength to face one more round of litigation. From the contents of the letters written by the workmen, these facts are quite evident. That is why they approached the Management to give a quietus to the issue. In our considered view, the Management could not have taken advantage of the situation even though the workmen were willing to enter the service of BHEL as new recruits. BHEL is a public sector undertaking. It cannot behave like a private employer.

13. It is true that the subsequent developments were recorded in the letter dated 24.09.1999 sent by the Authority under the Permanency Act to the Management of BHEL. But as a result of this, the earlier order passed by him on 05.07.1999 could not have been varied or modified. The principle of *functus officio* will definitely apply. So long as the order dated 05.07.1999 passed by the Authority holds good, the Management was obliged to have acted in strict conformity with the same.



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14. At the same time, taking into account the submissions made by the learned counsel for the Management, we felt that the appellants can be given continuity of service and service benefits such as gratuity, Provident Fund and encashment of leave and that backwages need not be paid.

15. The learned counsel appearing for the workmen submitted that it would be too harsh and in any event, considering that they were drawing low salaries, they should be at least paid 40% of the backwages without interest. We feel that this submission is quite fair and reasonable.

16. Accordingly, the impugned order passed by the learned Single Judge is set aside and the Writ Appeals are allowed in the following terms:

(a) The appellants will be considered as permanent workman of BHEL with effect from the date of termination, i.e., 31.03.1993.

(b) They will be entitled to continuity of service and all service benefits such as gratuity, Provident Fund and encashment of leave. However, they will be entitled to 40% of the backwages. This amount shall be paid by the



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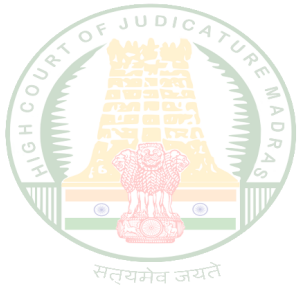
Management within a period of eight (8) weeks from the date of receipt of a

copy of this order and the same shall not carry any interest.

There shall be no order as to costs.

(G.R.S.,J.) (K.R.S.,J.)
25.08.2025

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