

W.P(MD).Nos.2800 of 2017 batch case

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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**ORDER RESERVED ON : 23.06.2025,
03.07.2025 & 7.08.2025**

ORDER PRONOUNCED ON : 26.08.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).Nos.2800 of 2017, 22489, 22451, 22457 of 2019
and 3211 & 3215 of 2021
and WMP(MD).Nos.2304 of 2017, 19273,
19231 & 19236 of 2019, 2537 & 2543 of 2021**

WP(MD).No.2800 of 2017:

The Superintending Engineer
Tirunelveli Electricity Distribution Circle
Tirunelveli 11

....Petitioner

Vs

1.The Inspector of Labour
Tirunelveli

2.A.Murugan

3.A.Muthuramalingam

4.M.Karuppasamy

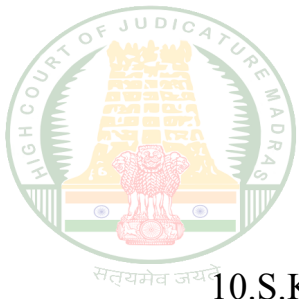
5.S.Thangavel

6.J.Rajapandian

7.L.Elumalaiyan

8.M.Govindan

9.D.Udaiyar



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10.S.Krishnan

11.E.Chellathurai

12.M.Subbaiya

M.Gopal (died)

13.G.Thangalakshmi

14.V.Sudalai

15.T.Gangaiya

16.V.Karupasamy

....Respondents

(R13 is substituted vide Court order
dated 29.07.2025)

Prayer in WP(MD).No.2800 of 2017: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in pursuant to the impugned order passed by the 1st respondent in CPS.Nos.1 of 2015 to 15 of 2015 dated 11.11.2015 and quash the same.

In WP(MD).No.2800 of 2017:

For Petitioner : Mr.Anand Gopalan
For M/s.T.S.Gopalan & Co.,

For Respondent : R1- Labour Court

: Mr.R.Thangasamy
for R2 to R4, R6 to R9 and R11 to R16

:No appearance for R5 & R10



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COMMON ORDER

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The writ petitions have been filed by TANGEDCO challenging the order passed by the authority under Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (CPS Act).

(A).Factual Background:

2.The private respondents in all the writ petitions were employed as contract labourers by TANGEDCO on a need based daily wage basis through a contractor. They have approached the first respondent under CPS Act seeking conferment of permanent status.

3.The petitioners herein had filed a counter contending that they are contract labourers and not direct employees of the Electricity Board, there is no employer employee relationship and hence, CPS Act is not applicable. However, the authority has proceeded to allow the applications with the following findings.

a)TANGEDCO would fall within the definition of employer under CPS Act.

b)The employee has completed 480 days within a period of 24 calender months.

c)The private respondents would fall within the definition of workmen under CPS Act.



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d).In view of the judgment of the Hon'ble Supreme Court reported in *1997 (3) LLN P 544 (M.Irudhayanathan and others Vs. State of Tamil Nadu and others)* , the availability on vacancy or want of cadre strength would not be a legal bar for conferring permanent status upon the workmen.

e).Even though all the employees have been engaged through a contractor, they have been employed for more than 20 years and hence, they are entitled to seek conferment of permanent status.

4.Challenging the above said order, the present writ petitions have been filed by TANGEDCO:

(B).Submissions of the learned counsels appearing on either side:

5.The learned Standing Counsel appearing for the writ petitioners submitted that all the employees were engaged either under a chit agreement or through a contractor. The salary was not paid by TANGEDCO. There was no employer employee relationship between the private respondents and the writ petitioners herein so as to invoke the provisions of CPS Act.

6.The learned counsel appearing for the petitioners had further submitted that the private respondents herein have either relied upon some certificates issued by their contractors or some section officials of TANGEDCO. He further submitted that even the certificates issued by the section officials would only prove that they were engaged through a contractor. Those services would only disclose the period during which they

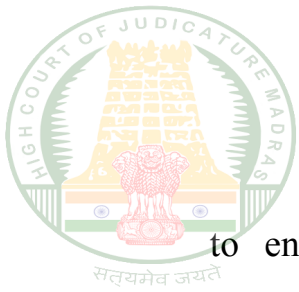


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had worked and not number of days. Hence, the respondents have failed to prove that they have worked for 480 days in 24 months.

7.The learned counsel for the petitioners had relied upon a Division Bench judgment of our High Court reported in **2022 SCC Online Mad 1003 (Superintending Engineer, Erode Electricity Distribution Circle Vs. The Inspector of Labour and others)** to contend that the authority under CPS Act would have jurisdiction to entertain an application seeking conferment of permanent status only if the workmen is directly employed with the employer. On the other hand, if they had been engaged through a contractor, the authority under CPS Act would not have any jurisdiction to adjudicate upon the validity of the contract. He also relied upon other Division Bench judgments of this Court in **W.A.Nos. 273 and 275 of 2020 (Selvaraju and others Vs. The Superintending Engineer, Namakkal Electricity Distribution Circle and others)** dated 20.01.2023 and **W.A.(MD).Nos. 771 to 775 of 2019 (The Superintending Engineer, Madurai Electricity Distribution Circle and another Vs. The Inspector of Labour, Madurai and others)** dated 21.12.2023 wherein they have followed the Division Bench judgment reported in **2022 SCC Online Mad 1003**.

8.The learned counsel for the petitioners further submitted that in view of the admitted fact that the workmen have been engaged through a contractor, the authority under CPS Act would not have any jurisdiction at all



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to entertain the applications for conferment of permanent status. The workmen should be relegated to the Labour Court in order to adjudicate upon the validity of the contract or to find out whether the contract is sham and nominal.

9.Per contra, the learned counsel appearing for the respondents workmen has relied upon the Hon'ble Division Bench judgment of our High Court reported in **2019-1-LLJ-186(Mad) (Junior Engineer, Tamil Nadu Electricity Board and others Vs. R.Radhakrishnan and another)** and submitted that the certificates issued by the officials of TANGEDCO can be relied upon for the purposes of conferment of permanent status upon the contract labourers. He also relied upon another Division Bench judgment of our High Court in **W.A.No.2252 of 2021 batch cases(A.Ravi Vs. The Tamil Nadu Electricity Generation and Distribution Corporation Ltd., Chennai and others)** dated 22.02.2022 to contend that the Hon'ble Division Bench was pleased to reverse the order of the writ Court and directed conferment of permanent status on contract labourers. He also relied upon the order passed by this Court in contempt proceedings in Cont.Petition.No.982 of 2012 batch case dated 06.02.2025 wherein the authorities were directed to comply with the order of the Hon'ble Division Bench.

10.The learned counsel for the respondents workmen had also relied upon various Board proceedings to contend that they have complied with the



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orders passed by the authorities wherein they have absorbed the Gangman who lead the chit agreement. He had further stated that all the workmen are employed for more than 20 years and therefore, there cannot be any dispute whatsoever that they have completed 480 days service within a period of 24 months. Hence, he prayed for sustaining the order passed by the authority under CPS Act.

11. Heard both sides and perused the material records.

(C).Discussion:

12. The primary contention of the learned Standing Counsel appearing for TANGEDCO is that the authority under CPS Act would not have any jurisdiction whatsoever to entertain the application from the contract labourers seeking conferment of permanent status. According to him, unless the workmen are directly employed with the employer, the authority would not get any jurisdiction.

13. The Hon'ble First Bench of our High Court in a judgment reported in ***2022 SCC Online Mad 1003 (Superintending Engineer, Erode Electricity Distribution Circle Vs. The Inspector of Labour and others)*** in Paragraph Nos. 25 to 27 has held as follows:

25. In view of the above, we can safely hold that the Lbaour Inspector can exercise jurisdiction only in the nature of summary enquiry, while a case involving



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complicated question of fact and law to be left for its adjudication under the Act of 1947. The question of fact and law to be left for its adjudication under the Act of 1947. The Labour Inspector can exercise his power under the framework of the Act of 1981. He has no power to adjudicate the issue in reference to other statutes, which includes the Act of 1970.

26. Since we have analyzed the issue afresaid, we would like to refer to the impugned order of the Labour Inspector to find out as to whether he has caused a summary enquiry or has travelled beyond his jurisdiction to adjudicate the questions of of fact and law pertaining to the other statute.

27. A perusal of the order passed by the Labour Inspector in the case on hand shows an adjudication of the issue in reference to the Act of 1970 also, though it was not within his competence. He is not having powers to comment on the nature of employment and the policy adopted by the petitioner corporation. He was required to simply see whether the workman has rendered continuous service for 480 days in 24 calender months. Thus, on the aforesaid issue, the interference therein may require to be made. “

14. The Hon'ble Division Bench of our High Court in a judgement rendered in W.A.Nos.273 and 275 of 2020 dated 20.01.2023 in paragraph No.



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3 has held as follows:

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“3.In view of the above said decision of this Court, these writ appeals are also disposed of. However, we make it clear that the authority can go into the question as to whether the contract is sham and nominal and, if it is sham and nominal, he has no authority to decide the issue and the matter has got to be decided either before the Industrial Adjudicator or the authority under the Contract Labour (Regulation and Abolition) Act, 1970. The authority is expected to decide the issue as early as possible on day-to-day basis, without adjourning the matter beyond seven working days at any point of time, as the same is pending for more than 25 years. No costs.”

15.The Hon'ble Division Bench of our High Court in W.A(MD).Nos. 771 to 775 of 2019 dated 21.12.2023 was pleased to follow the judgment of Division Bench cited supra. The private respondents herein have been engaged through the contractors for the purposes of digging, erection of poles etc., in the capacity of a Muzdoor. The workmen have admitted in their petition before CPS Authority that they are engaged through a contractor. The authority has also arrived at a finding that the workmen are engaged through a contractor. In such circumstances, as held by the Hon'ble Supreme Court in a judgment reported in **2001 (7) SCC 1 (Steel Authority of India Ltd., & others Vs. National Union Water Front Workers and others)**, in Paragraph No.125 (5), the question relating to whether the contract is a genuine one or



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is a mere camouflage to evade compliance of various beneficial legislations have to be decided only by the Industrial Adjudicator. Therefore, the authority under CPS Act would not have any jurisdiction whatsoever to entertain a claim seeking conferment of permanent status from the contract labourers.

(D).Conclusion:

16.In view of the above said legal position, the orders impugned in the writ petitions are not sustainable in the eye of law and the same are set aside. The writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

26.08.2025.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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1.The Presiding Officer
Labour Court
Tirunelveli

2.The Assistant Commissioner of Labour (Enforcement)
Authority under Tamil Nadu Industrial Establishment
(Conferment of Permanent Status) to Workman Act, 1981
Tuticorin

3.The Assistant Labour Commissioner
Authority under the Tamil Nadu (Conferment of Permanent Status)
Workmen Act, 1981, Nagercoil.

4.The Section Officer
V.R.Section
Madurai Bench of Madras High Court
Madurai



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R.VIJAYAKUMAR, J.

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Pre-delivery Common Order made in

W.P.(MD).Nos.2800 of 2017, 22489, 22451, 22457 of 2019 and 3211 & 3215 of 2021 and WMP(MD).Nos.2304 of 2017, 19273, 19231 & 19236 of 2019, 2537 & 2543 of 2021

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