

W.P.No.4719 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 24.03.2026

Pronounced on : 30.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.4719 of 2007

P. Ramasundaram

... Petitioner

vs

1.Tamil Nadu Electricity Board
Represented by its Chairman
800, Anna Salai, Chennai – 2.

2.The Superintending Engineer
Mettur Workshop Circle
Tamil Nadu Electricity Board,
Mettur Dam -1.

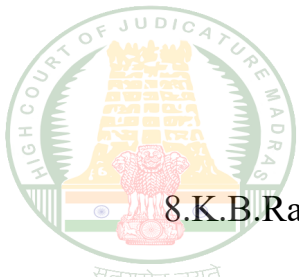
3.Additional Chief Engineer
Mettur Workshop Circle
Tamil Nadu Electricity Board,
Mettur Dam -1.

4.P.Kannan

5.S.Selvakumar

6.P.Thangarasu

7.T.Selaraj



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8.K.B.Ravishankar

9.L.Palanivel

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of declaration declaring that the action of the 3rd respondent in issuing Memo No.370/ADM/A3/F.Promotion/06 dated 12.01.2007 as illegal, contrary to the Memorandum of Understanding dated 11.06.1996 violative of Article 14, 16 and 21 of the Constitution of India and consequently direct the respondents 1 to 3 to promote persons in terms of the Memorandum of Understanding by restoring the position of the petitioner in the common seniority list and pass such order or orders as are necessary in the circumstances of the case.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.Rajkumar, Standing Counsel for R1 to R3.
Mr.S.Periyasamy for R4.
Mr.V.Chandrasekaran
for M/s.V.Porkodi for R5, R7 and R8.
No appearance for R6 and R9.

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents 1 to 3, learned counsel for the 4th respondent and the learned counsel for the respondents 5, 7 and 8, perused the records. Despite service of notice on other respondents there is no representation either in person or through counsel.

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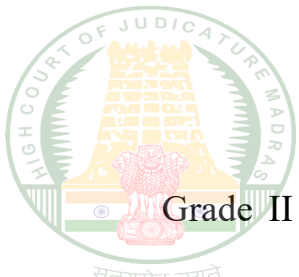
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2. The petitioner by the present writ petition has assailed the action of the 3rd respondent in issuing memo dated 12.01.2007 granting seniority to respondents 4 to 9 on the basis of their joining in the post as being illegal, contrary to the Memorandum of Understanding dated 11.06.1996 (for short 'MoU'), and violative of Articles 14, 16 and 21 of the Constitution of India with a consequential direction to respondents 1 to 3 to promote the persons in terms of the MoU and restoring the position of the petitioner in the common seniority list prepared pursuant to the Memorandum of Understanding entered into with the workers Unions on 11.06.1996.

Contentions of the Petitioner :

3. Briefly put the facts of the case of the petitioner is that he was appointed as "Helper" on 23.04.1988 in the Mettur Workshop circle of the respondents 1 to 3 pursuant to the notification issued for filling up of 80 + 30 (totaling to 110) vacancies of "Helper"; that on being appointed as "Helper" he was allotted to work in Regular Work Establishment (RWE); that his service was regularised on 31.10.1990; that he was promoted as Blacksmith



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Grade II on 25.07.1991; and that he was further promoted as Blacksmith

Grade I on 25.08.1993.

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4. The petitioner further contended that candidates possessing ITI qualification are appointed as 'helper' in respondent work shop; that on such appointment are assigned to different sections / trade of RWE irrespective of 'field' of their ITI qualification; that promotion is granted to the next level Grade II to Grade I based on the vacancy in the respective trade; that the workman who are in Grade I, irrespective their 'trade' become eligible for further promotion to the post of Junior Engineer / Mechanical II Grade

5. The petitioner also contended that the respondents 1 to 3 had issued category wise seniority of field workers on 12.01.1993; that the aforesaid category of seniority prepared was subject matter of challenge before this Court in a writ petition vide WP.No.9103 of 1993; that this Court by order dated 22.09.2000 upheld the category wise seniority; and that the respondents No.4 to 9 herein were petitioner in the said writ petition filed.



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6. It is the further case of the petitioner that pending challenge to the category wise seniority, various employees union had sought for fixing seniority on the basis of scale of pay; that pursuant to the aforesaid demand of the Unions, a Memorandum of Understanding was entered into between the various Unions representing the workers and the respondents 1 to 3 vide MoU dated 11.06.1996, whereunder it was agreed that priority list should be prepared on the basis of scale of pay and promotion should be made based on common seniority list; that on the basis of the aforesaid MoU entered into by and between the respondents 1 to 3 and the Unions representing the workers, a common seniority list was prepared on the basis of scale of pay; that the name of the petitioner is shown at Sl. No. 122 in the scale of pay of 1150-40-1350-45-1980 of the Common Seniority list; that the name of the 4th respondent is shown under the scale of pay of 1050-30-1200-40-1840 at Sl.No.16 of the Common Seniority list; and that the 4th respondent and other respondents 5 to 9 are below the petitioner as per scale of pay.

7. It is the further case of the petitioner that on the basis of common seniority list; though the petitioner became eligible for being promoted to the post of Junior Engineer, the respondent by over looking the Common



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Seniority list prepared pursuant to the Memorandum of Understanding, under the guise of implementing the Award in ID.No.104 of 1995 dated 28.02.1997 as affirmed by the High Court in WP.No.2130 of 1998 dated 06.07.2006 have placed the private respondents i.e., respondents 5 to 8 in seniority above the petitioner by reckoning their date of joining in the respective post as the basis; that the aforesaid action of the respondents in granting seniority on the basis of date of joining in the respective post is contrary to the common seniority list prepared on the basis of scale of pay, pursuant to the MoU entered into with the Union representing the workmen.

8. The petitioner further contended that on the respondents issuing common seniority list based on the scale of pay, though certain objections were filed claiming that the seniority should be based on the date of joining, the respondents 1 to 3 rejected the same and declared the common seniority list prepared on the basis of scale of pay is final.

9. The petitioner contended that the respondents 1 to 3 while seeking to implement the order of the Labour Court in ID.No.104 of 1995 dated 28.02.1997 not only acted contrary to the finalized seniority list, but also



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failed to take note of the fact that the private respondents 5 to 9 in the writ petition were not parties to the Industrial Dispute raised by the 4th respondent herein and as such could not have extended the benefit of the said order to the respondents 5 to 9, merely because they have impleaded themselves in the writ petition filed by respondents 1 to 3 herein against the Award of Labour Court.

10. It is the further contention of the petitioner that the Award of the Labour Court in ID.No.104 of 1995 is pursuant to the specific reference by the Government under Section 10 of the Industrial Disputes Act, 1947 (for short 'ID Act'), in relation to dispute raised by 4th respondent and thus, is applicable only to the worker (i.e,) 4th respondent herein being "*in personam*" and the other respondents not being parties to the Award, the benefit of the said Award cannot be extended to them, as the dispute raised is not a matter of collective interest, for the Award to be treated as "*in rem*".

11. The petitioner further contended that being aggrieved by the Award of the Labour Court, though the respondent no.1 to 3 had filed writ petition before this Court vide WP.No.2130 of 1998, and this Court having

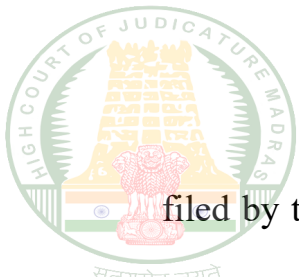


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dismissed the said writ petition on 06.07.2006, would not make the Award of the Labour Court a general Award applicable to all the workman for the respondents 1 to 3 to ignore the common seniority list prepared on the basis of MoU dated 11.06.1996 for granting the benefit as directed by the labour court in I.D. No. 104 of 1995 to the other respondents.

12. It is also contended by the petitioner that the reference under Section 10 of the ID Act being worker specific reference, the respondents 1 to 3 to extend the benefit of Award to the private respondents, even though the Union had raised the dispute and referred to the labour court; and that the respondents not being parties .

13. The petitioner further contended that the private respondents 5 to 9 herein did not raise the dispute by themselves at any point of time before the labour court or were not summoned in the process of adjudication of the I.D. filed by the 4th respondent for them to claim the Award passed in I.D.No.104 of 1995 has become enforceable to all, particularly to them as they got impleaded themselves as respondents in the year 2002 in the writ petition



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filed by the 1st respondent herein, assailing the Award and by mere arraying them as respondents by way of implead, the respondents cannot claim the benefit of the Award passed by the Labour Court in a worker specific reference made under Section 10 of the ID Act, relating to the 4th respondent.

14. It is also the further case of the petitioner that the private respondents 5 to 9 without they themselves raising a Industrial Dispute, cannot be conferred the benefit which the 4th respondent secured from the Labour Court under the Award in ID.No.104 of 1995.

15. The petitioner also contended that if the respondents 1 to 3 wanted to extend the benefit of the Award, on the basis of date of joining in the post, contrary to the MoU by conferring the benefit to all the similarly placed workman, it ought to have entered into further Memorandum of Understanding super-seeding the earlier MoU; that the respondents 1 to 3 rather than confining the benefit of the Award only to the 4th respondent, at whose behest reference was made under Section 10 of the ID Act, made the said Award applicable to the respondents 5 to 9 who merely got themselves



impleaded in the pending writ petition filed by it assailing the Award as passed by the Labour Court .

16. It is also contended by the petitioner that by representation dated 08.01.2007, he had brought to the notice of the respondents details of about 46 workers who would be entitled to be granted similar relief, if the respondents 1 to 3 wanted to act on the basis of the Order of this court in WP.No.2130 of 1998 giving effect to the Award passed by the labour court; that the respondent without considering the said representation and without explaining the basis for them to issue the impugned proceedings have extended the benefit of the Award passed in the case of 4th respondent to respondents 5 to 8; and thus, the action of the respondents 1 to 3 apart from being selective, is illegal, discriminatory and in violation of Article 14, 16 and 21 of the Constitution of India.

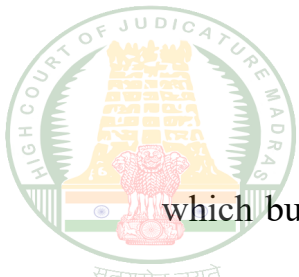
17. On behalf of the petitioner it is also contended that the respondents 1 to 3 having failed before the Labour Court as well as before this Court in getting the claim of the 4th respondent rejected by bringing to the notice of the labour court as well as this court of the



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subsequent development of unions entering into MoU with the respondent 1 to 3 pending adjudication of the I.D, ought to have restricted the enforcement of the Award of the Labour Court only to the 4th respondent and ought not to have extended the benefit to respondents 5 to 9 who did not raise any dispute by themselves at any point of time to claim the benefit under the Award, nor parties to the Award or were summoned by the Labour Court, except impleading themselves as respondents in the writ petition filed by the respondents 1 to 3 against the Award passed by the Labour Court in the reference made on the basis of the dispute raised by the union on behalf of the 4th respondent.

18. Petitioner further contended that the respondents 1 to 3 while enforcing the Award in so far as 4th respondent have included the private respondents 5 to 9 along with 4th respondent and granted them seniority on the basis of date of joining in the respective posts thereby giving a go by to the MoU has resulted in the petitioner who is senior as per the scale of pay, has been denied promotion to the post of Junior Engineer II Grade when it was due to him and was granted promotion ultimately only in the year 2009,



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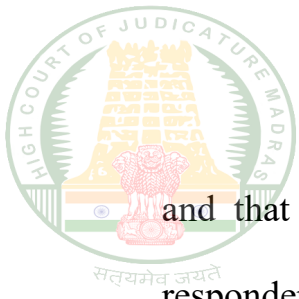
which but for the illegal action of the respondents 1 to 3, would have been secured at an earlier point of time.

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19. Contending as above, the petitioner seeks for setting aside the impugned order in its entirety or alternatively to the extent of respondents 5 to 9 who did not raise any dispute by themselves before the Labour Court and who merely got themselves impleaded in the writ petition filed by the respondents 1 to 3 herein against the Award passed by the Labour Court on a reference pursuant to a dispute raised by the 4th respondent herein.

Contentions on behalf of the respondents 1 to 3

20. On behalf of the respondents 1 to 3 it is contended that the Secretary of the Tamil Nadu Electricity Board, Dravida Tholilalar Federation had raised dispute before the Labour officer, Salem, under section 2(k) of Industrial Dispute Act, 1947, challenging the non promotion and tampering with the service records of its member - Tr.P.Kannan / 4th respondent herein; that the Government had referred the aforesaid dispute raised by the union on behalf of its member Tr.P.Kannan to the Labour Court for consideration in GO.(D).No.969 Labour and Employment department dated 24.07.1995;



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and that the Labour Court by Award dated 28.02.1997 had directed the respondents to give promotion to its member (i.e) P.Kannan from the date it give promotion to one Tr. Palanivel and three others, who the petitioner to the Industrial Dispute (Tr. P. Kannan) claimed were his juniors.

21. On behalf of the respondents 1 to 3, it is contended that the Award dated 28.02.1997 was passed by the Labour Court pursuant to a reference made under section 10 of the I.D.Act.

22. On behalf of the respondents 1 to 3, it is further contended aggrieved by the Award of the Labour Court, though the respondents had preferred a writ petition before this Court vide WP.No.2103 of 1998, the said writ petition being dismissed by this Court on 06.07.2006; and thus, the respondents were required to enforce the Award passed by the Labour Court.

23. On behalf of the respondents 1 to 3, it is also contended that since, the Award of the Labour Court was affirmed by this Court, the respondents 1 to 3 while enforcing the order took note of the fact that the respondents 5 to 9 having got themselves impleaded in the writ petition,



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extended the benefit of the Award to them also, even though, they have not raised any dispute by themselves through Union under Section 2(k) of the I.D. Act 1947 or join as parties in the I.D. before the Labour Court and were only arrayed as respondents in the writ petition on they seeking impleadment in the year 2002.

Contentions of the private respondents :

24. On behalf of the 4th respondent an objection was sought to be raised with regard to the MoU filed by the petitioner into this Court along with writ petition, claiming that the same is at variance with the copy of MoU in possession of the 4th respondent, to contend that the claim of the petitioner that as per the MoU available, the seniority is to be fixed only on the basis of the scale of pay cannot be accepted and the date of joining is also to be reckoned.

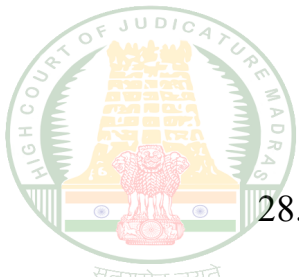
25. On behalf of the 4th respondent, it is contended that since, the Award of the Labour Court had become final and as there is no further challenge to the said Award either by the respondents 1 to 3 or by the petitioner or for that matter any other employee or union as being contrary to



MoU, it is not open for the petitioner to lay a challenge to the Award as affirmed by this Court, in a collateral proceedings.

26. On behalf of the respondents 5,7 and 8, it is contended that the Award passed by the Labour Court is pursuant to reference under section 10 of the I.D. Act, and thus, the said Award applies to all the workman as per section 18(3)(c) & (d) of the I.D.Act.

27. On behalf of the respondents 5, 7 and 8, it is also contended that since, the respondents 5 and 7 on coming to know of the Award passed by the Labour Court in favour of the 4th respondent and the respondents 1 to 3 having challenged the same before this Court by filing a writ petition, got themselves impleaded in the writ petition and defended the Award and as such they are entitled for being extended the benefit under the Award and thus, the impugned order by which, the respondents 1 to 3 had granted them seniority on the basis of date of joining does not suffers from any illegality for the petitioner to call it in question.



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28. Contending as above, the respondents seek for dismissal of the writ petition.

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Cases relied by the Parties :

29. On behalf of the petitioner reliance is placed on the following decision of the Hon'ble Apex Court in **Civil Appeal No.7777 of 2023 dated 23.07.2025 – Vishnu Vardhan @ Vishnu Pradhan v. The State of Uttar Pradesh and others.**

30. Learned Standing Counsel appearing on behalf of the respondents 1 to 3 place reliance on the following decisions :-

(i) Union of India and others V. R.P.Singh – (2014) 7 SCC 340

(ii) Civil Appeal No.1144 of 2022, dated 07.02.2022– R.Muthukumar and others V. The Chairman and Managing Director TANGEDCO and others.

(iii) WP.No.9105 of 1993 dated 22.09.2000 – P.N.Gunasekaran and others v. The Chief Engineer /



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Personnel, TNEB, Anna Salai, Madras – 2 and others.

31. On behalf of the respondents 5 and 7 reliance is placed on the following decisions :-

(i) K.C.Sharma and others V. Union of India and others - (1997) 6 SCC 721.

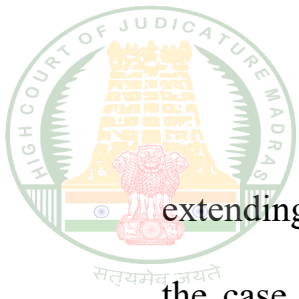
(ii) Punjab National Bank and others V. Manjeet Singh and another – (2006) 8 SCC 647.

(iii) Maharaj Krishan Bhatt and another v. State of Jammu and Kashmir and others – (2008) 9 SCC 24.

Consideration by the Court:

32. I have taken note of the respective contentions urged.

33. At the outset, it is to be noted that though the petitioner had questioned the action of the respondents 1 to 3 in issuing the impugned proceedings dated 12.01.2007 not only in respect of 4th respondent but also



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extending the benefit to respondents 5 to 9, it is to be noted that insofar as the case of 4th respondent is concerned, the same had attained finality on account of this court putting its stamp of approval on the Award passed by the Labour Court in ID.No.104 of 1995 in WP.No.2103 of 1998 vide order dated 06.07.2006.

34. Admittedly, the respondents 1 to 3 did not prefer appeal against the said order of this Court. Even the petitioner by seeking leave of the Court to file third party appeal did not file any appeal. Thus, a co-ordinate bench of the same court cannot sit in Appeal over the order passed by another co-ordinate bench, and any such action would amount to judicial impropriety.

35. Though on behalf of the respondents 1 to 3, a submission is advanced, that the decision of this Court in WP .No.2103 of 1998 is *per incuriam*, as this Court had not taken note of the Memorandum of Understanding entered into by the workers union with the respondents 1 to 3 on 11.06.1996, during the pendency of the I.D.No.104 of 1995 before the Labour Court, and that the Labour Court having not examined any of the



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parties to the proceedings, it is to be noted that it is too late in the day, for the respondents 1 to 3 to raise the said plea of the Award of the Labour Court being contrary to MoU, so also the order of this court in WP.No.2103 of 1998 having been passed without taking into consideration, the subsequent developments.

36. Further, the petitioner who had filed the copies of the Award passed by the Labour Court and the order passed in writ petition, in the present proceeding, could have made use of the same, for filing a third party appeal by himself, claiming that the 4th respondent had obtained the said order by playing fraud on the Court and thus, fraud vitiates everything. The petitioner admittedly did not take any steps in that direction. Once, the Award of the Labour Court has become final, respondents 1 to 3 are bound to enforce the same to the extent of 4th respondent, as the Award is specific to him. Thus, the challenge of the petitioner to the impugned proceedings to the extent of 4th respondent has to fail.

37. In so far, as extending the benefit of the Award passed by the Labour Court in a reference made under Section 10 of the ID Act, to the



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respondents 5 to 9 by respondents 1 to 3 on the basis of them getting themselves impleaded in the writ petition filed against the Award of the Labour Court is concerned, firstly, it is to be noted that merely by getting themselves impleaded in the writ petition without raising a dispute they themselves initiating any action on their own, either during the pendency of the ID before the Labour Court or after passing of the Award by approaching the Labour Court seeking similar relief, the respondents 5 to 8 would not be entitled for being granted any relief. The respondents 5 to 8 who get themselves impleaded in the writ petition filed by respondents 1 to 3 herein against the Award of the Labour Court without being parties to the Award, at the most can be considered as intervenors. It is trite law that if any person wants to seek a relief, then he/she has to file a petition by himself/herself, and cannot come as intervenor. **[See : (i)Mysore State Road Transport Corporation V. Babajan Conductor and another – (1977) 2 SCC 355 and (ii)U.P.State Sugar Corporation V. Burhwal Sugar Mill Co. Ltd., - (2004) 4 SCC 98.]**

38. Secondly, it is to be noted that the reference under section 10 is on specific facts, as set out in the application filed before the Labour Court and



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are concerning the 4th respondent and not of common interest or matters of collective interest impacting the general body of workers, for the respondents to claim that the Award would be applicable to all the workman.

39. It is settled position of law that reference under Section 10 of the I.D.Act, the Labour Court cannot expand the scope of reference and the jurisdiction of the Tribunal is determined by terms of reference. Thus, the reference is confined to the dispute raised before the Labour Court specific to the case of 4th respondent and does not concern all the members in general. *[See: Rai Sahib Ramdayal Ghasiram Oil Mill and partnership firm v. Labour Appellate Tribunal and another – 1962 SCC Online SC 406]*

40. Though on behalf of the respondents 5, 7 and 8 by placing Reliance on section 18(3) of the ID Act, it was sought to be contended that the Award passed by the Labour Court becomes binding and enforceable in respect of all the employees, sub-section (3) of Section 18 has four sub-clauses (a) to (d) and a reading of the same indicates that an Award of the



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Labour Court which has become enforceable shall be binding only (a) all the parties to the Industrial Dispute; (b) all other parties summoned to appear in the proceeding as parties to the dispute; (c) where the party referred in (a) or (b) above is an employer, his heir, successor or assigns in respect of the establishment to which the dispute relates; and (d) where a party referred to in clause (a) or (b) is composed of workmen, all persons who are employed in the establishment or part of the establishment, to which the dispute relates on the date of dispute. The Sub-clause (d) of Section 18(3) would thus, be applicable to collective dispute and not a specific or individual dispute.

41. On behalf of the respondents, it was sought to be contended by virtue of clause (iv) of sub-section (3) of Section 18 of the ID Act, since, the respondents 1 to 3 is a party to the Industrial Dispute and being employer and the respondents 5 to 9 being employed in the establishment on the date when the Industrial Dispute raised by the 4th respondent is referred to Labour Court, thus, the Award of the Labour Court not only binds the respondents 1 to 3 to give effect to the Award in respect of 4th respondent, but also in respect of other employees who are employed or would be employed in the establishment (i.e) with the respondents 1 to 3, as noted herein above that



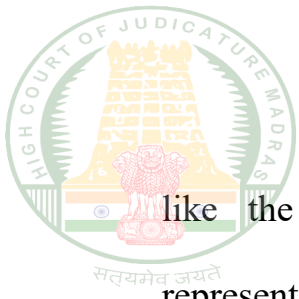
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there can be two kinds of disputes that can be referred to Court / Labour Court or Tribunal - i) particular to an individual workman; and ii) impacting the collective interest of all the workman.

42. A reading of the application filed by the Union before the Labour Court would show that it is the specific case of the petitioner therein that its member (i.e) 4th respondent was not granted promotion, while his juniors were promoted and that his date of joining has been altered by the respondents. The said dispute can only be considered as a fact based dispute and not a general dispute or representative in nature concerning all the workman, for the respondents 1 to 3 to implement the Award for other employees like respondents 5 to 9.

43. The fallacy of aforesaid contention urged on behalf of the respondents 5, 7 and 8 would also be evident from the fact that the said respondents while seeking to justify inclusion of their names in the impugned proceedings, are not in a position to offer any explanation as to the exclusion of other similarly placed employees by the respondents 1 to 3,



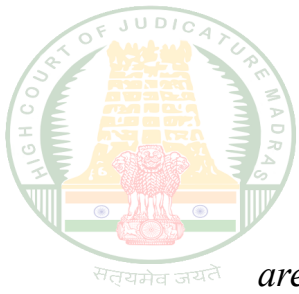
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like the 46 members who's names were provided by the petitioner in its representation dated 08.01.2007.

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44. Further a reading of the Award passed by the Labour Court in ID.No.104 of 1995 would show that the Labour Court having granted the relief by analysing the facts noted therein, thus, being a fact specific Award, the private respondents who are neither the parties to the Industrial Dispute nor having initiated similar proceedings like seeking reference under section 10 as initiated by the 4th respondent or impleading as parties before the labour court, in the considered view of this Court could not have been allowed to slip in, to claim the benefit of the Award.

45. The Hon'ble Apex Court in ***Rajeev Kumar and ors V. Hemraj Singh Chauhan and others***, reported in ***(2010) 4 SCC 554***, while dealing with a service dispute, wherein the appellants before the Hon'ble Supreme Court got themselves impleaded before the High Court, after referring to the decision in the case of ***L.Chandra Kumar v. Union of India and ors.***, reported in ***(1997) 3 SCC 261***, held –

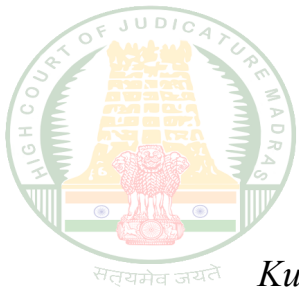


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“14. The grievances of the appellants in this appeal are that they were not made parties in proceedings before the Tribunal. But in the impleadment application filed before the High Court it was not averred by them that they were not aware of the pendency of the proceedings before the Tribunal. Rather from the averments made in the impleadment petition it appears that they were aware of the pendency of the proceedings before the Tribunal. It was therefore, open for them to approach the Tribunal with their grievances. Not having done so, they cannot, in view of the clear law laid down by the Constitution Bench of this Court in L. Chandra Kumar [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] , approach the High Court and treat it as the court of first instance in respect of their grievances by “overlooking the jurisdiction of the Tribunal”. CAT also has the jurisdiction of review under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987. So, it cannot be said that the appellants were without any remedy.

15.As the appellants cannot approach the High Court by treating it as a court of first instance, their special leave petition before this Court is also incompetent and not maintainable.



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16.16. The principles laid down in L. Chandra Kumar [(1997) 3 SCC 261 : 1997 SCC (L&S) 577] virtually embody a rule of law and in view of Article 141 of the Constitution the same is binding on the High Court. The High Court fell into an error by allowing the appellants to approach it in clear violation of the Constitution Bench judgment of this Court in L. Chandra Kumar [(1997) 3 SCC 261 : 1997 SCC (L&S) 577]”.

46. Another important aspect which need to be taken note of, is that, the 4th respondent had raised an Industrial Dispute on 09.10.1995. The unions representing the workman while pending the specific dispute raised by the 4th respondent, have entered into an MoU with the respondents 1 to 3 on 11.06.1996. Thus, the said MoU is to be considered as settlement as defined under section 2(p) entered into by the workman with the employer through their Unions.

47. The settlement entered into by the workers unions on behalf of its employees, binds all the employees under section 18(1) of the ID Act. Thus, the respondents 5 to 9 cannot allowed speak contrary to the said settlement, by claiming their seniority on the basis of their joining into particular



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service, unless a notice is served under Section 19 of the ID Act after the expiry of validity of settlement. No material is placed before the court by respondents 1 to 3 to show that subsequent to entering into MoU, any notice being served under Section 19 of ID Act, for them to claim that the MoU ceased to be effective. Once, a Settlement arrived at with the unions, is in force, it is not open for the workers to claim that they are not bound by the terms of settlement/ MoU and any such plea even if raised is liable to be rejected.

48. The Hon'ble Apex Court while dealing with scope of Section 18(1)(3) of I.D. Act, in the case of ***Barauni Refinery Pragthisheel Shramik Parishad V. Indian Oil Corporation Ltd – (1991) 1 SCC 4*** held as under :-

“8. Section 18(1) says that a settlement arrived at by agreement between the employer and the workmen otherwise than in the course of the conciliation proceedings shall be binding on the parties to the agreement. Sub-section (3) of Section 18 next provides as under:

“18.(3) A settlement arrived at in the course of conciliation proceedings under this Act or an arbitration award in a case where a notification has been issued under sub-section (3-A) of Section 10-A or award of a Labour Court,



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Tribunal or National Tribunal which has become enforceable shall be binding on—

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, Arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.”

It may be seen on a plain reading of sub-sections (1) and (3) of Section 18 that settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings and (ii) those arrived at in the course of conciliation proceedings. A settlement which belongs to the first category has limited application in that it merely binds the parties to the agreement but the settlement belonging to the second category has extended application since it is binding on



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all parties to the industrial dispute, to all others who were summoned to appear in the conciliation proceedings and to all persons employed in the establishment or part of the establishment, as the case may be, to which the dispute related on the date of the dispute and to all others who joined the establishment thereafter. Therefore, a settlement arrived at in the course of conciliation proceedings with a recognised majority union will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority.”

49. Further, the binding effect of the Award passed in case of an individual workmen can also be examined from another angle. If only a



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dispute of particular worker for eg. Termination referred to the Labour Court

under Section 10 of the ID Act, is rejected, would the respondents contend that the Award rejecting the reference binds similar terminations under Section 18(3)(d) of the ID Act. In such cases the parties like respondents 5 to 9 would argue that it is specific to the case of the petitioner in ID and cannot be treated as binding on all the employees / workmen, as the issue not being of common / collective interest.

50. The respondents 1 to 3 while seeking to implement the Award passed by the Labour Court in ID.No.104 of 1995 as affirmed by this Court, ignoring the above differentiation, have slipped in the names of respondents 5 to 9, by conferring seniority to them on the basis of date of joining, which action of the respondents 1 to 3 is contrary to MoU, it had entered into on 11.06.1996, agreeing to have common seniority list on the basis of scale of pay, as per which the respondents 5 to 9 are lower in scale of pay than the petitioner.

51. Further the action of the respondents 1 to 3 in issuing the impugned proceedings lacks any rationale or reasoning. If only the

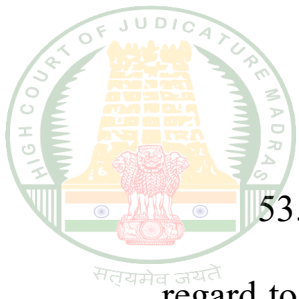


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respondents intended to consider the Award of the Labour Court in

ID.No.104 of 1995 as an Award *in rem*, and enforceable in respect of all its employees, it ought to have implemented the same, by taking into consideration the date of joining of all the employees in the respective posts and not the scale of pay at all. Thus, the respondent 1 to 3 adopted dual standards while granting promotion to the post of Junior Engineer.

52. That apart, the static silence on the part of the respondents 1 to 3 on the representation submitted by the petitioner, giving the details of 46 workman / employees who would also be entitled for the similar benefit as extended to respondents 5 to 9, would only go to show that the respondents 1 to 3 do not have any plausible explanation to offer, justifying their the action, which only goes to show that the respondents 1 to 3 have acted in collusion with the respondents 5 to 9 in conferring the said the benefit in the name of enforcing the Award of the Labour Court, as affirmed by this Court. though is specific to the 4th respondent and respondents 5 to 9 being not parties to the said Award.



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53. In so far as the issue raised on behalf of the 4th respondent with regard to the MoU as filed into this Court by the petitioner not being actual MoU entered into by the union representing the workman with the respondents 1 to 3, this Court vide order dated 19.08.2025 had called for the original records of ID.No.104 of 1995 from the Labour Court, wherein the said memorandum of understanding has been marked as Ex.No.34. A comparison of the MoU as filed by the petitioner with a portion being struck off, is found in the original MoU, duly bracketed and initialed to show its deletion. The difference between the copy of the MoU as filed by the petitioner and the Original is, in the original the word 'Civil' is also found deleted, while in the copy filed by the petitioner the said word was not struck off. Thus, the doubt sought to be raised by the 4th respondent as to the genuineness of the MoU is only invented for the purpose of protracting the litigation, on one ground or the other and to derive the benefit of the illegal action of the respondents 1 to 3, while passing the impugned order.

54. Further the respondents 1 to 3 in the counter affidavit filed by them having not denied/ controverted the claim made by the petitioner in its representation dated 08.01.2007, of there being another 46 workman /



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employees who are similarly placed like respondents 5 to 9, would also go to show that the action of the respondents 1 to 3 in allowing the respondents 5 to 9 to slip in, and being granted seniority on the basis of date of joining would make the impugned proceedings vitiated and unsustainable.

55. Further the respondents 1 to 3 having rejected the objections filed by one of the union to the common seniority list prepared on the basis of scale of pay, vide proceedings dated 17.09.1996, where under the union had requested to consider the date of assumption of charge in the workshop, the impugned action is contrary to their own communication, by which it is stated that the common seniority list on the basis of scale of pay is final seniority list and will not be changed.

56. Further the respondents 1 to 3 having entered into MoU cannot and could not have acted contrary to the same in respect of some of the workman, by taking the date of joining, except the case of 4th respondent which is as per the order in ID, resulting respondents 1 to 3 giving a go by to the MoU entered into by it.



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57. Thus, the action of the respondents 1 to 3 is to be considered adopting the method of pick and choose to suit their convenience and to help conniving employees like respondents 5 to 9 at the cost of others like petitioner. But for the aforesaid conniving act of the respondents 1 to 3 with respondents 5 to 9, the petitioner who was in Blacksmith Grade-I and in higher scale of pay would have become eligible for being promoted as Junior Engineer earlier to the respondents 5 to 9.

58. In so far as the case law relied on behalf of respondents 1 to 3 is concerned, the same is in relation to the principle of '*per incuriam*'. As noted herein above, the respondents 1 to 3 having failed in their effort to get the Award of Labour Court set aside before this Court, or taking further steps, the respondents cannot be allowed to raise the plea of '*per incuriam*'.

59. In so far as the case law relied upon by the private respondents, the decision would not advance the case of the respondents as is none of the said decisions it has been held that the Award passed in individual specific reference and not collective interest would become enforceable under Section 18(3) of Industrial Disputes Act.



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Conclusion:

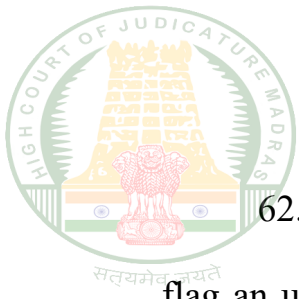
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60. In view of the above, this Court is of the considered view that the impugned proceedings by which the respondents 1 to 3 have conferred the benefit of the Award passed by the Labour Court in ID.No.104 of 1995 in the case of respondents 5 to 9 is malafide and vitiated and cannot be sustained. The impugned proceedings to the extent of inclusion of names of respondents 5 to 8 is thus, liable to be set aside.

61. Accordingly, the writ petition is allowed as below :

(i) the impugned proceedings dated 12.01.2007 issued by the 3rd respondent to the extent of granting seniority to respondents 5 to 9 on the basis of their date of joining in the respective unit of the respondents is set aside as being contrary to MoU dated 11.06.1996; and

(ii) the respondents 1 to 3 are directed to promote the employees / workers in terms of MoU by restoring the position of the petitioner in the common seniority list, including the consequential benefits that the petitioner may be entitled. No costs.



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62. Before parting with this case, this Court deems it appropriate to flag an unhealthy practice of counsels who are not appearing in the matter for any of the parties, seeking to interfere with the Court proceedings and trying to address the Court. When the learned standing Counsel appearing on behalf of the respondents 5, 7 and 8 addressing the Court, one counsel Mr.Govardhanan of M/s.Row and Reddy and another counsel (name not identified), sought to address the Court, as to how the Award passed by the Labour Court can be made applicable to others like respondents whom the counsel was representing being a fact specific. The counsels who were not appearing on behalf of any of the respondents, sought to explain the scope of section 18(3)(c) & (d). This Court had to stop them from addressing the Court, as they were neither appointed as Amicus to assist the Court nor this Court had solicited their assistance, apart from belittling the arguing counsel.

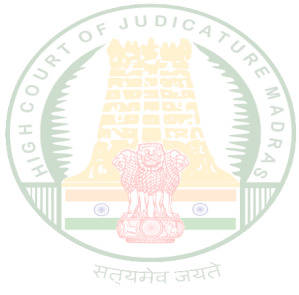
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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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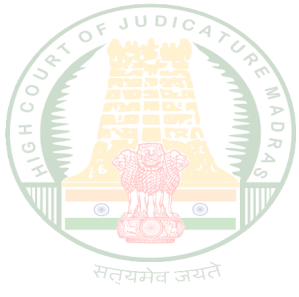
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To

1.Tamil Nadu Electricity Board
Represented by its Chairman
800, Anna Salai, Chennai – 2.

2.The Superintending Engineer
Mettur Workshop Circle
Tamil Nadu Electricity Board,
Mettur Dam -1.

3.Additional Chief Engineer
Mettur Workshop Circle
Tamil Nadu Electricity Board,
Mettur Dam -1.



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T. VINOD KUMAR, J.

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Pre-delivery order made in
W.P.No.4719 of 2007

30.03.2026