

(2011) 11 MAD CK 0297

In the Madras High Court

Case No : Writ Petition (MD) No. 10268 of 2006 and M.P. (MD) No. 2 of 2006

The Executive Engineer, TWAD Board, Maintenance Division,
23-C, Besant Road, Chinnachokkikulam, Madurai-2 and The
Assistant Executive Engineer, TWAD Board, Maintenance Sub
Division, 7-A, Gandhiji Road, NRT Nagar, Theni

APPELLANT

Vs

The Inspector of Labour, Theni and Others

RESPONDENT

Date of Decision : 11-11-2011

Acts Referred:

Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen)
Act, 1981 — Section 3(2)

Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen)
Rules, 1981 — Rule 6(4)

Citation : (2011) 11 MAD CK 0297

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : M. Ajmal Khan, for the Appellant; K. Mahesh Raja, Government
Advocate for Respondent No. 1, Mr. J. Ashok for Respondents 4, 7 and 8 for M/s.
P. Jeyapaul Associates and No Appearance for Respondents 2, 3, 5, 6 and 9, for
the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice K. Chandru

1. The Writ Petition is filed by the Executive Engineer, TWAD Board, Maintenance Division, challenging an order passed by the first respondent, the Inspector of Labour, Theni, dated 29.06.2006, granting conferment status in respect of respondents 2 to 9.

2. When the Writ Petition came up on 16.11.2006, this Court ordered notice of motion and granted an order of interim stay for a period of four weeks. Subsequently, the interim stay was extended from time to time and on 26.04.2007, it was extended until further orders. Since the original counsel appearing for the petitioners informed that she is no longer the counsel, the

name of Mr.M.Ajmal Khan, who is the Standing Counsel for the TWAD Board, was directed to be printed in the cause-list. Accordingly, the name of Mr.M.Ajmal Khan was printed and appeared in the cause-list.

3. The contention raised by the petitioners Board was that the order passed by the first respondent was without jurisdiction and that the Board is not covered by the provisions of the Act and the authority has assumed the power of judicial officer. It is rather shocking to note that with reference to the application of the Act, the very question came up for consideration before this Court in respect of the petitioners-Board vide judgment in TWAD Board Employees' Union vs. TWAD Board reported in 1983 (I) LLJ 410 (Mad).

4. It was held that the provisions of the Tamil Nadu Act 46 of 1981 will apply to TWAD Board and that the TWAD Board is an industrial establishment coming within the definition of Section 3(2) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

5. Insofar as the second contention that the authority has no power to decide the issue is concerned, under Rule 6(4) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Rules, 1981, it is made clear that if an employee finds his name not entered in the list referred to under Sub-Rule 2, he can make a complaint to the Inspector concerned and the Inspector, after examining the representation or after making enquiries, may issue suitable directions to the employer for rectification of the register in Form-1 or for issuance of orders conferring permanent status to the workman concerned. In this context, the legal authority of the Inspector is settled by a decision of this Court relating to the case in Vellore Electricity Distribution Circle vs. Labour Inspector reported in 2004(3) LLN 598 : 2004 (105) FJR 960.

6. The other issues raised by the petitioners had been squarely answered by a Division Bench of this Court in The Superintending Engineer, Nagapattinam Electricity Distribution Circle, Tamil Nadu Electricity Board and The Executive Engineer, Operation and Maintenance, Tamil Nadu Electricity Board Vs. The Inspector of Labour and D. Athmanathan, .

7. Under the said circumstances, there is no case made out to entertain the present Writ Petition. Hence, the Writ Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.