

(1992) 02 MAD CK 0040

In the Madras High Court

Case No : Writ Petition No's. 1908 of 1984 and 2558 of 1990

Twad Board Employees Union

APPELLANT

Vs

Twad Board and others

RESPONDENT

Date of Decision : 27-02-1992

Acts Referred:

Factories Act, 1948 — Section 2, 7, 85
Industrial Disputes Act, 1947 — Section 2(8)
Payment of Bonus Act, 1965 — Section 32

Citation : (1993) 1 LLJ 410

Hon'ble Judges : Mishra, J

Bench : Single Bench

Advocate : K. Chandru, for the Appellant; J.R.K. Bhavananthan, for TWAD Board. and N. Sampat, for the Respondent

Judgement

W.P. No. 2558 of 1990

1. Tamil Nadu Water Supply and Drainage Board, called TWAD hereinafter, has invoked, this Court's writ jurisdiction against the order (award)

of the Additional Labour Court, Madurai, in Industrial Dispute No. 394/85 under which the demand of 27 workmen that they should be made

permanent has been declared justified and accordingly ordered.

2. Alleging inter alia that the said 27 employees and ten others were engaged in various jobs under the petitioner and were employed against the

sanctioned posts accorded for maintaining, a certain scheme of work for periods for a number of years, yet they were treated as purely temporary

employees, the workmen raised an industrial dispute seeking a declaration that they were permanent employees and that they should accordingly

be absorbed on permanent basis TWAD Board entered appearance and maintained that they were temporary/casual employees who can be made

permanent only by the Managing Director of the Board in accordance with its policy, their employment was on the condition that they would be

removed from the employment on the handing over of this scheme to the local bodies as the Board engaged them only for such schemes to be

executed and thus for the work of the scheme concerned.

3. On the facts that were placed before the Labour Court, it noticed as follows :

It is not in dispute that the services of the above workmen are essential to maintain the scheme under the control of respondent Board. In fact the

Superintending Engineer has stated in the letter Ex. W. 10 that there are 14 NMR appointed before 1977 and that there are 24 NMR appointed

after 1977 and that they have no experience in maintaining this scheme and that the department cannot afford to lose their service. Under G.O.

dated January 21, 1984, respondent has clearly stated that the question of making the 38 NMR workmen permanent basis is under consideration

by the Government. Ex-W-3 the letter addressed to S.E. by the KK. dated October 15, 1981 will show that 44 employees under various

categories are essential to carry on the scheme. It is not denied even in the counter statement that the workmen mentioned in the claim statement or

in the additional claim statement have not completed one year service or two year service as the case may be. Ex. M. 1 is the copy of the Muster

Roll. Most of the entries are not legible. However, the posts to which all these workers were appointed and their length of service noted in the

claim statement are not denied in the counter statement. Therefore there can be no difficulty in holding that the workers mentioned in the claim

statement are put up in the length of service detailed in the relevant column therein."

3. The Labour Court also noticed that the respondent before it did not deny that the workmen were entitled to permanent status. The only

contention before the Labour Court was that they could be made permanent only by the Managing Director, that they were appointed on

temporary basis and that they could be removed on the handing over of the scheme to the local body. The Board, however, maintained that it had

written to the Government for ratification of the appointment, and the Government's reply was awaited. Before the arguments concluded the

Government's order in G.O. Ms. No. 380 ratifying the appointment of workers on

temporary basis was received. The Board, upon this, contended, according to the facts mentioned in the award :

At the time of arguments also, it is contended by the respondent that the G.O. Ms. No. 380 ratified appointment even though it was purely

temporary and that it does not confer any right on the employees to claim benefit from the date of the original temporary appointment and that they will get the benefits intended for the permanent employees only from the date on which they are made permanent employees.

4. The Legislature of the State of Tamil Nadu thought it appropriate to create the Tamil Nadu Water Supply and Drainage Board and transferred

all assets and liabilities of the Public Health Engineering and Municipal Works Department to the Board, as well as service of such employees who

existed in the concerned Department of the Government and incorporated in Section 30 of Act 4 of 1971 that every person who immediately

before the notified date was serving in connection with the affairs of the Department of Public Health Engineering and Municipal Works including

the office of the Chief Engineer (Public Health Engineering and Municipal Works) under the Government would as from that date be deemed to

have been allotted to serve in connection with the affairs of the Board, and cease to be an employee of the Government, provided that the

conditions of service applicable immediately before the notified date to any person would not be varied by the Board to his disadvantage except

with the previous approval of the Government, and provided further that nothing contained in this section would apply to any officer or other

employee who, by notice in writing, given to the Board within sixty days next following the notified date, intimated his intention of not becoming an

officer or other employee of the Board. Besides Section 30, Section 31 provides for transfer of any employee of the Government to the Board on

conditions as stated therein. The Board so created by the statute was given autonomy to do all things necessary for the purpose of carrying out the

Act and to work under such orders and directions of the State Government as were necessary or expected for carrying out the purpose of the Act.

It is not necessary to proceed further to notice the scheme of the Act and the question as to who was the appointing authority and how the

appointments were required to be made, as it is not in dispute in the instant case

that the workmen ordered to be regularised as permanent

employees were engaged by the competent authority in the Board, and their appointment as temporary employees has been duly sanctioned by the

State Government.

5. I shall come to the main dispute and the contention that has been raised before me. But before I do so, I must recall how in a welfare State of

ours, the concept of master and servant has undergone a change and legislations have intervened to ensure that employers do not exploit the

employees, and the latter are not put under such conditions of service which give the employer arbitrary powers to remove, reduce in rank, or to

otherwise exploit the employees except in accordance with and within the bounds of the prescribed procedures of law. One such law brought in

force soon after independence by Act. 14 of 1947 is the Industrial Disputes Act. Besides this, several other Acts, such as Payment of Bonus Act,

Employees Provident Fund Act, and the Employees Insurance Act have either existed from before independence or have been enacted by the

legislature.

6. The Industrial Disputes Act has a definition of the word "industry" to mean "any business, trade, undertaking, manufacture or calling of

employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen and the word "workman"

to mean any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or

supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this

Act in relation to an industrial dispute, to include any such person who has been dismissed, discharged or retrenched in connection with, or as a

consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person - (i) who

is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or (ii) who is

employed in the police service or as an officer or other employee of a prison; or (iii) who is employed mainly in a managerial or administrative

capacity, or (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or

exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

These two definitions in the Act read together indicate that "industry" has a pervasive meaning to include any business, trade, undertaking,

manufacture or calling, including the activities of the Government of a State or Union of India. Had this not been so, there is no reason to specify

that a person employed in the police service or an officer or other employee of a prison, who in the very nature of his services is employed by the

Government of the State, is excluded.

7. Any doubts in this behalf, however, must be found removed by a judgment of seven Judges Bench of the Supreme Court in the case of

Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others, . In that case, Bangalore Water Supply & Sewage Board was having

a similar constitution and functions as the Board with which we are concerned. Apart from holding that the Bangalore Board is an industry, the

Supreme Court pointed out that "industry" as defined in Section 2(j) of the Industrial Disputes Act has a wide import. The Supreme Court further

said (pp. 367-370) :

Industry overflows trade and business. Capital, ordinarily assumed to be a component of ""industry"", is an expendable item so far as statutory

industry"" is concerned. ... Absence of capital does not negative ""industry"". Nay, even charitable services do not necessarily cease to be

industries"" definitionally although popularly charity is not industry....

Profit making motive is not a sine quo non of industry, functionally or definitionally.... The negation of the profit motive is a telling test against

industry"".

The Supreme Court tersely pointed out, that ""industries"" will cover ""branches of work that can be said to be analogous to the carrying out of a

trade or business"". There can be little doubt after the above illuminating judgment of the Supreme Court that TWAD Board is an industry. In the

words of the Supreme Court. (p.394) :

The heart of trade or business or analogous activity is organisation with an eye on competitive efficiency, by hiring employees, systematising

processes, producing goods and services needed by the community and obtaining money's worth of work from employees. If such is the nature of

operations and employer-employees relations which make an enterprise an industry, the motivation of the employer in the final disposal of products

or profits is immaterial. Indeed the activity is patterned on a commercial basis, judged by what other similar undertakings and commercial

adventures do. To qualify for exemption from the definition of "industry" in a case where there are employers and employees and systematic

activities and production of goods and services, we need a totally different orientation, organisation and method which will stamp on the enterprise

the imprint of commerciality. Special emphasis, in such cases, must be placed on the central fact of employer-employee relations. If a philanthropic

devotion is the basis for the charitable foundation or establishment, the institution is headed by one who whole-heartedly dedicates himself for the

mission and pursues it with passion, attracts others into the institution, not for wages but for sharing in the cause and its fulfillment, then the

undertaking is not "industrial". Not that the presence of charitable impulse extricates the institution from the definition in Sec. 2(j) but, that there is

no economic relationship such as is found in trade or business between the head who employs and the others who emotively flock to render

service. In one sense, there are no employers and employees but crusaders all. In another sense, there is no wage basis for the employment but

voluntary participation in the production, inspired by lofty ideals and unmindful of remuneration, service conditions and the like....

The dominant test thus is the nature of employer-employee relationship. Once it is found that the trade or business or analogous activity of the

employer is an economic activity, there is no escape from the conclusion that the establishment concerned is an industry. (pp. 405-406).

8. Concluding, the Supreme Court observed :

We conclude with diffidence because Parliament which has the commitment to the political nation to legislate promptly in vital areas like Industry

and Trade and articulate the welfare expectations in the "Conscience" portion of the Constitution, has hardly intervened to restructure the rather

clumsy, vaporous and tell-and-ward definition or tidy up the scheme although judicial thesis and anti-thesis, disclosed in the two decades long

decisions, should have produced a legislative synthesis becoming of a welfare State and Socialistic Society in a world setting where I.L.O. norms

are advancing and India needs updating. We feel confident, in another sense, since counsel stated at the Bar that a Bill on the subject is in the

offing. The rule of law, we are sure, will run with the rule of life. Indian Life at the threshold of the decade of new development in which labour and

Management, guided by the State, will constructively partner the better production and fair diffusion of national wealth. We have stated that save

the Bangalore Water Supply and Sewerage Board appeal, we are not disposing of the others on the merits. We dismiss that appeal with costs and

direct that all the others be posted before a smaller Bench for disposal on the merits in accordance with the principles of Law herein laid down.

9. The Bill that was pending when the Bangalore Water Supply case (supra) was decided by the Supreme Court, fruclified in a legislative

amendment (Act 46 of 1982), and a new definition to the word ""Industry"" has been introduced as follows :

2.(j). ""industry"" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are

employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or

services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not, -

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, and includes.... (a) any activity of the Dock Labour Board established u/s

5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948) :

(b) any activity relating to the promotion of sales or business or both carried on by an establishment, but does not include -

(1) any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such

activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one.

Explanation, - For the purposes of this sub-clause, ""agricultural operations"" does not include any activity carried on in a plantation as defined in

clause (f) of Section 2 of the Plantations Labour Act, 1951 (69 of 1951); or

(2) Hospitals or dispensaries; or

(3) educational, scientific, research or training institutions; or

(4) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service; or

(5) khadi or village industries; or

(6) any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments

of the Central Government dealing with defence research, atomic energy and space; or

(7) any domestic service; or

(8) any activity, being a profession practiced by an individual or body of individuals, if the number of persons employed by the individual or body

of individuals in relation to such profession is less than ten; or

(9) any activity, being an activity carried on by a co-operative society or a club or any other like body of individuals, if the number of persons

employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten :

The amendment, however, has not yet been enforced. The law even today is in the same state as it was at the time of the judgment of the Supreme

Court in Bangalore Water Supply case (supra).

10. The view of the Supreme Court expressed in Bangalore Water Supply case (supra) has been followed, and it has to be followed until the

legislature intervenes or the Supreme Court itself finds another meaning to the word "industry". Cases after cases, Courts in India as well as the

Supreme Court have reiterated this law. TWAD Board, however, has been resisting the enforcement of Labour welfare legislations. It resisted the

enforcement of the Industrial Employment (Standing Orders) Act 1946, and the Payment of Wages Act, 1936.

11. In The Tamil Nadu Water Supply and Drainage Board and Another Vs. M.D. Vijayakumar and others, , a Bench of this Court said (p. 268) :

The principles laid down by the Supreme Court in U.P. State Electricity Board, v. H. S. Jain and S. Bagianathan and Others Vs. Secretary to

Government of Tamilnadu, Rural Development and Local Administration Department and Others, are applicable to the facts of the present case

and we fully agree with the conclusion of the learned single Judge that the Act of 1946 is a special law vis-a-vis regulations framed under the

general Law viz., the Tamil Nadu Act IV of 1971, and it will prevail over the

regulations framed by the respondent-Board in exercise of the powers conferred u/s 73 of the Act IV of 1971. The Learned single Judge also rightly held that the respondent-Board is an "industrial establishment" within the meaning of Section 2(e)(i) of the Act of 1946, that the regulations framed by the respondent-Board in exercise of the powers u/s 73 of the Act IV of 1971 will not be applicable to the workmen governed by the Act of 1946 and that the disciplinary action taken by the respondent Board against the workmen based on the regulations have to struck down.

12. The Board resisted the implementation of Payment of Bonus Act, 1965, on a slightly different ground that it was an institution established not for purpose of profit within the meaning of Section 32(v)(c) of the Payment of Bonus Act, 1965. A Bench of this Court in Tamil Nadu Water Supply and Drainage Board Engineers Association etc. Vs. State Government of T.N. and others, rejected the said argument saying inter alia as follows : (pp. 404-405) :

We have no manner of doubt that the respondent Board has been established to serve the public interest by ensuring better amenities of life and raising the standard of life of the community as a whole. Learned single Judge has referred to the functions of the Board and its powers and rightly held that the purpose behind the functions of the Board is to provide protected drinking water supply and drainage facilities, but this also cannot be disputed that the Board has got its own assets and liabilities, that it has got its own method of recovery of the cost of the Schemes, making investment and constituting its funds by"" all monies received by and on behalf of the Board..., all proceeds of land or any other kind of property sold by the Board, all charges, all interest, profits and other money accruing to the Board and all monies and receipts"", deposited into the public accounts of the Government under such detailed head of accounts as may be prescribed or in the Reserve Bank of India, State Bank of India or any corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970. It has thus a scheme of profit and loss. It shall earn profit in some year and loss in another year. Thus, in its commercial activities of a sort, it has got a capital structure, profit and liabilities and a labour force to care for. We see no reason to hold in

accordance with the rule indicated by the Supreme Court in the case of *Workmen T. T. Devasthanams v. Management* : (1980)ILLJ211SC that the Board is an institution designed for profit in the limited sense that when the Government's department found it difficult to run such projects departmentally, they decided to create a Board and transferred the projects to ensure that there was proper service to the community at large on the one hand and on the other, there was no pressure on the meagre revenue and other resources of the State.

13. The only resistance in the instant case and the only contention on behalf of the appellant-Board is based on its claim that it is not an industry.

Nothing has been shown for me to think or even to pause for a moment, why, if Bangalore Water Supply and Sewerage Board, as found by the

Supreme Court is an industry, TWAD Board is not an industry. Nothing has been shown to distinguish the nature and functioning of the instant

Board from the Bangalore Water Supply and Sewerage Board. Thus, there is nothing on record to distinguish the case of the appellant from the

case in the Supreme Court in *Bangalore Water Supply* (supra).

14. Both the learned Counsel for the petitioner and learned Counsel for the respondents have taken us through the various judgments of the Courts

on the subject, including a Division Bench Judgment of the Gujarat High Court in *P.W.D. Employees Union and Others Vs. State of Gujarat* and

Others, , in which Public Works Department (the predecessor of the petitioner Board in the instant case) has been held to be an industry and the

Judgment of the Supreme Court in *Dhari Gram Panchayat Vs. Saurashtra Mazdoor Mahajan Sangh and Another*, in which ""Octroi Department"" of

the State Government has been held to be an industry; and *Des Raj and Ors Vs. State of Punjab and Ors*, in which Irrigation Department of the

Government has been held to be an industry. These decisions support the view that I have taken that keeping in view all the activities of the TWAD

Board, TWAD Board has to be held as an industry, and I accordingly do so.

15. Although there has been no serious challenge before me and there has been no occasion on the facts of the instant case to examine whether the

Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, shall apply to the case of the petitioner or not,

my attention has been drawn to the provisions therein, and it is contended that

since TWAD Board is not covered by the definition of "Industrial establishment" therein, the employees cannot claim permanent status as a matter of right. The Labour Court has come to the conclusion that those of the employees who were working against permanent posts and were recruited against permanent posts should be made permanent employees with effect from the date of expiry of two years from the date of initial appointment, not on the basis of the provisions in this Special Act, but on general principles that must govern the relationship of employer and employee in an industry. It seems to me that it will be incorrect if I argue and hold that unless a certain establishment falls under the definition as in Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, Act 46 of 1981, the employees therein shall not be entitled to claim any permanent employment. I shall, however, examine how even for the purpose of this Act, the Board shall be found satisfying the requirements of the definition of "industrial establishment". This Act has defined the word "employer" to mean "the owner of an industrial establishment, and to include in a factory, any person named under clause (f) of sub-sec. (1) of Section 7 of the Factories Act, as manager of the factories, in any industrial establishment under the control of any department of any State Government in India, the authority appointed by such State Government in this behalf, or where no authority is so appointed, the head of the department, and in any other industrial establishment, any person responsible to the owner for supervision and control of the industrial establishment. "Industrial establishment" has been defined as follows :

2. (3) "Industrial establishment means -

(a) a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (Central Act LXIII of 1948) or any place which is deemed to be a

factory under sub-section (2) of Section 85 of that Act; or

(b) a plantation as defined in clause (f) of Section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951) : or

(c) a motor transport undertaking as defined in clause (g) of Section 2 of the Motor Transport Workers Act. 1961 (Central Act 27 of 1961) : or

(d) a beedi industrial premises as defined in clause (i) of Section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966

(Central Act 32 of 1966) : or

(e) an establishment as defined in clause (6) of Section 2 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act, XXXVI of 1947;)

(f) a catering establishment as defined in clause (1) of Section 2 of the Tamil Nadu Catering Establishments Act, 1958 (Tamil Nadu Act XIII of 1958) or

(g) any other establishment which the Government may, by notification, declare to be an industrial establishment for the purpose of this Act.

It has been contended that this definition will exclude all industrial establishments from the operation of the law of conferment of permanent status other than a factory as defined in clause (m) of Sec. 2 of the Factories Act, 1948, or any place which is deemed to be a factory under sub-section

(2) of Sec. 85 of that Act, or a plantation as defined in clause (f) of Sec. 2 of the Plantation Labour Act, 1951, or a motor transport undertaking as

defined in clause (g) of Sec. 2 of the Motor Transport Workers Act, 1961, or a beedi industrial premises as defined in clause (i) of Sec. 2 of the

Beedi and Cigar Workers (Conditions of Employment) Act, 1966, and an establishment as defined in clause (6) of Sec. 2 of the Tamil Nadu

Shops and Establishments Act, 1947, or a catering establishment as defined in clause (1) of Sec. 2 of the Tamil Nadu Catering Establishments Act,

1958, or any other establishment which the Government may, by notification, declare to be an industrial establishment for the purpose of this Act.

16. Section 2 of the Factories Act defines "factory" to mean any premises including the precincts whereon ten or more workers are working, or

were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of

power, or is ordinarily so carried on, or whereon twenty or more workers are working or were working on any day of the preceding twelve

months and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on, but does not

include a mine subject to the operation of the Mines Act, 1952, or a mobile unit belonging to the armed forces of the Union, a railway running shed

or a hotel, restaurant or eating place. In the instant case, there is no dispute about the number of workers not falling short of the requisite number

under this definition. There can also be no dispute to the fact that workmen, if

engaged in the manufacturing process as required under the definition of the word "factory", will be workers for the purpose of the Factories Act. Whether any of the activities of the TWAD Board is a manufacturing process is a question which is required to be answered. "Manufacturing process" has been defined in the Factories Act to mean,

.... any process for -

- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking-up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or
- (ii) pumping oil, water, sewage or any other substance; or
- (iii) generating, transforming or transmitting power; or
- (iv) composing types for printing, printing by letterpress, lithography, photogravure or other similar process or book-binding; or
- (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or
- (vi) preserving or storing any article in cold storage.

The activities in which the Board is engaged are spelled out in Section 16 of the Tamil Nadu Water Supply and Drainage Board Act, 1970, which states inter alia that the Board shall perform the functions at the instance of the Government or a local authority, investigating the nature and type of schemes that can be implemented in the area of any local authority for the provision of drinking water and drainage facilities; planning and preparing of schemes including schemes covering areas falling within the jurisdiction of more than one local authority for the purpose of providing the supply of drinking water or drainage facilities; executing such schemes under a phased programme for the provision of drinking water and drainage facilities within the areas of local authorities to which such schemes relate; providing technical assistance or giving advice to local authorities in the execution and maintenance of water supply and drainage works; establishing and maintaining schemes incidental to water supply and drainage such as testing of water, designing of plant for purification of water, conducting research relating to water supply and maintaining farm schemes; any other matter which is supplemental, incidental or consequential to any of the above functions; and such other functions as may be prescribed.

17. It was stated before the Labour Court, and it is so stated before me, that all the workmen involved in the dispute were engaged in Kovilpatti

Water Supply and Maintenance. Scheme under the control of the Board, which scheme came into existence in the year 1971, to provide water

supply to more than three lakhs of people in two Municipalities, three Town Panchayats and 19 Village Panchayats. They were categorised as

Electrician, Pipe Line Fitter, Cleaner, Watchmen, etc. These particulars are not disputed. Thus, they are men and women, who were engaged in

one or the other activity which can only be characterised as a manufacturing process. For this reason, the only conclusion that can be recorded is

that employees under the TWAD Board who are engaged in manufacturing process are workers in a factory and thus entitled to the benefits of the

conferment of permanent status under the Tamil Nadu Act 46 of 1981.

18. In view of the above, since no other objection has been raised before me, I unhesitatingly hold that the Labour Court has committed no error,

and no judicial review thus is called for. There is no merit in the writ petition. The writ petition is accordingly dismissed. There will be no order as

to cost.

W.P. No. 1908 of 1984 :

19. In view of my judgment in Writ Petition No. 2558 of 1990, the impugned order in the instant petition has ceased to be operative, and it cannot

be given effect to except in accordance with the rules of transfer of any undertaking or transfer of employees by one statutory authority to another

statutory authority in accordance with law. The impugned order in reference No. 998/84 File No. 173 dated February 14, 1984 is accordingly set

aside. The writ petition is allowed. There will be no order as to costs.