

TAMIL NADU ELECTRICITY BOARD EMPLOYEES AND  
CONTRACT LABOUR UNION AND ORS.

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v.

TAMIL NADU ELECTRICITY BOARD AND ORS.

MAY 5, 1995

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[R.M. SAHAI AND B.L. HANSARIA, JJ.]

*Contempt—Contract Labour—Electricity Board—Absorption—Recommendation of Khalid Commission—Implementation of—Delay in—Absorption proposed in phases—Extension of time for implementation—Directions regarding.*

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The appellant-Union filed a contempt petition alleging that the respondent-Electricity Board has wilfully violated the recommendations made by the Khalid Commission and accepted by this Court regarding absorption of 18006 contract workers within the specified time schedule. The respondent-Board made a statement to absorb the employees in phases i.e. 436 workmen on or before 30.9.1995, 5500 workers on or before 31.3.1997 and the remaining 5506 workers on or before 31st March, 1999. It explained reasons for the delay and sought extension of time for implementation of the directions in stages as indicated before.

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The appellant-Union opposed the extension of time and made a grievance that Board's absorption programme would leave about 2000 workers in the lurch. However, the shortfall in various categories who would not be eligible for absorption i.e. those found common in more than one list; those found unfit by the Selection Committee; those who remained absent at the time of scrutiny; and those who made erroneous claim was properly explained by the respondent-Board. The appellant-Union also requested for a forum to consider, if necessary, the cases of the workers who were earlier found unfit by the Selection Committee as well as one more opportunity before the Committee for 588 employees who earlier remained absent at the time of scrutiny.

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Disposing the petition, this Court

HELD : 1. Time is extended till 30.9.1995 to absorb/employ 436 workers and till 31.3.97 to absorb/employ 5500 workers more belonging to

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A groups other than I to V. All the rest whose number would be 5506 shall be employed/absorbed on or before 31st March, 1998. In doing so, the number of group V workers would not be confined to 485 as mentioned in paragraph 104(5) of the report, as their number really is 1424, as given in paragraph 100. No further extension will be given in this regard and the failure of the respondents to absorb all the remaining workers on or before 31st March, 1998 shall be taken to be an act of wilful disobedience and they would suffer the consequences accordingly. [16-H, 17-A-B]

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D 2. In case of the workers who were found unfit by the Selection Committee earlier, or who might be so found hereinafter, a forum should be made available to the petitioner-Union to be approached in case they were of the view that the workers in question were/are not really unfit. In this regard the decision of the concerned Commissioner of Labour shall be final and binding on all concerned. As regards 588 employees who remained absent at the time of scrutiny the respondent is directed to give another opportunity to them to appear once again before the Selection Committee and then to act in accordance with the recommendations of the Committee. [17-C, E, F]

CIVIL ORIGINAL JURISDICTION : Contempt Petition No. 357/93 and I.A. Nos. 13, 15 and 19.

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Special Leave Petition (C) No. 1820 of 1990.

F From the Judgment and Order dated 10.1.90 of the Madras High Court in W.P.No. 13886 of 1988.

With

Contempt Petition No. 354/93 in W.P. (C) No. 555/90.

G Indira Jai Singh, F.S. Nariman, C.S. Vaidyanathan, Sudarsh Menon, Ms. Chandan Ramamurthi, P.H. Parekh, E.R. Kumar, A. Mariarputham, Ms. Aruna Mathur, K.V. Vishwanathan, Anil Aggarwal, M.A. Krishnamurthy, K.V. Vijay Kumar, V. Balachandran, V.Krishnamurthy and R. Mohan for the appearing parties.

H The Judgment of the Court was delivered by

**HANSARIA, J.** It is said that the wearer only knows where the shoe pinches. This aspect has been highlighted by the counsel appearing for the contempt-petitioners by urging that the recommendations of the Khalid Commission requiring the respondents to recruit 18006 contract workers within the time schedule specified by the Commission has been observed more in violation than in compliance. They, therefore, submitted that the respondents have willfully violated the recommendations of the Commission which were accepted by this Court. They contend with force that as the time extended by this Court to implement in full the recommendations of the Commission has also expired, the respondents are guilty of contempt and they should, therefore, be dealt with suitably.

2. When this matter was heard at length on April 20, 1995, we had desired the learned counsel appearing for the respondents to receive instructions as to whether the respondents could recruit all the remaining workers by 31st March, 1995. To know this, the case was taken up on 1st May, 1995 when we were informed that the respondent-Electricity Board would, on or before 30.9.1995, absorb/employ 436 workmen; and on or before 31st March, 1997 further absorb/employ 5500 workers of the contractors. As to the remaining 5506 workers, the statement made was that they would be absorbed/employed on or before 31st March, 1999.

3. The learned counsel appearing for the respective-Union were sore at the delay in recruiting/employing the workmen inasmuch as according to the time schedule mentioned by Khalid Commission in its report the target time for Groups I to V workmen was 31.12.1991. They, therefore, implored that the Board does not deserve any accommodation as regards the time schedule, because the workers have already suffered a lot and their agony has become intolerable and we may not, therefore, concede to the unreasonable demand of the Board.

4. Shri Nariman, learned senior counsel appearing for the Board, has, however, drawn our attention to the detailed affidavit filed by the Board on 6th February, 1995 mentioning as to why the Board could not act earlier as per the recommendations of the Khalid Commission and as to why it needs further time fully comply with the report. One of the aspects mentioned in this connection is that as per the recommendations of the Commission there has to be a matching employment I.T.I. trained persons in the ratio of 1:1 for some groups of workmen. That apart, the loss which the Board incurring year after year has been brought to our notice. The

A learned counsel urges that despite all sincerity and earnestness on the part of the Board it has not been able to work as recommended by the Commission and it would not be possible to employ/absorb all the remaining workmen even by 31st March, 197, but would do so as indicated above.

B 5. We have duly considered the rival submissions and before we express our views on the time schedule to be followed, it would be necessary to deal with another grievance advanced on behalf of the petitioner-Unions. According to the learned counsel for them, the statement has made by the respondents in their aforesaid affidavit and what was stated in the Court on 1st May, 1995 would leave some 2000 workers in the lurch.

C This has been so stated because the total number of workmen to be absorbed in 18006, of whom the Khalid Commission mentioned about 7000 in paragraph 104 so far as the time schedule is concerned. It is no doubt correct that this number is 7000; but it has been averred in paragraph 7(b) of the aforesaid affidavit that this number would be 5985, excluding those

D found common in more than one list given by the Union. Of these 5985 employees, 247 were found unfit by the Selection Committee instituted by Khalid Commission; and 588 employees remained absent at the time of scrutiny because of which they did not appear to be interested in taking job, as stated in sub-para (c). So, the number of 7000 aforesaid workmen would come down to 5150. Of these, 4381 employees have already recruited

E and leaving a balance of 769, of whom 436 would be recruited in a phase manner by 30th September, 1995. As to the remaining 333 it has been averred in sub-para (g) that they had claimed tenure of more than six years,

F but when the Selection Committee scrutinized their cases, it was found that their claim was erroneous and their service ranged from two years to five years. So these workmen would not be eligible for absorption in Phase 1 and 2, of which mention has been made in the report of the Commission. They would, however, be recruited as and when persons belonging to their respective groups become eligible for recruitment.

G 6. The aforesaid shows that the shortfall of about 2000 workers, about which mention has been made by the learned counsel for the Unions has been duly explained.

H 7. Coming to the extension of time as prayed for, we are prepared to extend time till 30.9.1995 to absorb/employ 436 workers and time till 31st March, 1997 to absorb/employ 5500 more belonging to groups other than

I to V. All the rest, whose number would be 5506, shall have to be employed/absorbed on or before 31st March, 1998. In doing so, the number of Group V workers would not be confined to 485 as mentioned in paragraph 104 (5) of the report, as their number really is 1424, as given in paragraph 100, to which our attention has been invited by Shri Vaidyanathan, appearing for one of the Unions. We make it absolutely clear that no further extension shall be given in this regard and the failure of the respondents to absorb all the remaining workers on or before 31st March, 1998 shall be taken to be an act of willful dis-obedience and they would suffer the consequences accordingly.

8. Ms. Indira Jai Singh, appearing for the Central Organisation of Tamil Nadu Electricity Employees, has prayed that in case of the workers who were found unfit by the Selection Committee earlier, or who might be so found hereinafter, a forum should be made available to the petitioner-Unions to be approached in case they were of the view that the workers in question were/are not really unfit. We find force in this submission and order that in such a case it would be open to the concerned Union to approach the concerned Commissioner of Labour whose decision in the matter shall be final and binding on all concerned. Another submission made by Ms. Indira Jai Singh is that qua 588 employees about whom it has been stated in para 7(c) of the aforesaid affidavit that they remained absent at the time of scrutiny and as such do not appear interested in taking job, one more opportunity to appear before the committee may be given, since in many cases the information about the interview reached them after the date of interview, as stated in paragraph 11 of the reply affidavit filed by this petitioner-Union. We accept this submission as well and direct the respondent to give another opportunity to the aforementioned 588 employees to appear once again before the Selection Committee and then to act in accordance with the recommendations of the Committee.

9. Before closing, we have to deal with the prayer of the respondents seeking suitable directions on some of the matters mentioned in paragraph 14 of the aforesaid affidavit. We allow the prayer made in sub-para (d), but state that the recruitments so made shall not affect the right of the workers at hand to get recruited as already ordered. As to sub-para (e), we observe that the regulations relating to reservation for listed categories shall have to be complied with, but in doing so, the number of such categories of workers who would be recruited as per the order would be

- A counted, and it may well be that in that case the percentage of reservation is achieved; if not, extra recruitment shall have to be made as per the percentage of reservation fixed by the regulations in question. Qua sub-para (f), all that can be said, as rightly submitted by Ms. Jai Singh, is that the recruited workers would abide, and abide fully, by the Standing Orders of the respondent Board. They cannot be treated differently from other workmen after they have become a part of working force of the Board.
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10. The petitions shall be placed for further orders on 1st May, 1998, if that be a court working day; if not, on the immediately next working day.

T.N.A.

Petition disposed of.