

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.06.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.19963 of 2016
and
W.M.P.No.17215 of 2016

S.Alagappan

.. Petitioner

vs

1. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution
Corporation, No.144, NPKRR Maaligai
Anna Salai, Chennai 600 002.
2. The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution
Corporation, No.144, NPKRR Maaligai
Anna Salai, Chennai 600 002.
3. The Assistant Executive Engineer
Tamil Nadu Generation and Distribution
Corporation, Salem, Salem District.
4. The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation, Salem, Salem District.
5. The Assistant Executive Engineer
Transmission and Constructions
Tamil Nadu Generation and
Distribution Corporations Salem-7
Salem District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relevant to the order in Letter No.053138/G.58/g.582/2009-5 dated 17.02.2013 passed by the first respondent; to quash the same and thereby direct the respondents to appoint the petitioner in the permanent status in the respondent-Department without any further delay.

For Petitioner : Mr.A.Rajesh Kanna
For Respondents : Mr.P.R.Dhilip Kumar
Standing Counsel for TNEB

ORDER

The prayer in the writ petition is for the issuance of a writ of certiorarified mandamus to call for the records relevant to the order in Letter No.053138/G.58/G.582/2009-5 dated 17.02.2013 passed by the first respondent; to quash the same and thereby direct the respondents to appoint the petitioner in the permanent status in the respondent-Department.

2. The case of the petitioner is that he was employed as a contract labourer under the various contractors of the respondent -Department and he was doing transmission line construction and civil works for the past more than 20 years. According to him, those persons who have worked for more than 280 days continuously are entitled to regularization of their services. Since the petitioner has put in more than ten years of service, he sent a representation to the respondents seeking to regularize him. However, the second respondent vide his letter dated 17.02.2013 has rejected the request of the petitioner stating that as per the orders issued in per B.P.(FB) No.44 (Adm.Branch) dated 06.09.2007 for absorption of contract labourers in the Board, they have been engaged on need basis continuously for five years or more as on 05.01.1998 and that they should have been identified as on 08.08.1998 by the committee that they have been paid ex-gratia from the year 1997-98 onwards till 2005-2006 and also should have continuously engaged till the date of their absorption in the Board. Aggrieved by the said order, the petitioner is before this Court.

3. When the matter is taken up today for hearing, the learned Standing Counsel appearing on behalf of the respondent-Department would submit that as per the Board's order only those persons who have completed five years or more alone are entitled to absorption as permanent employee of the Board. Since the issue raised by the petitioner is a disputed question of fact, this has to be gone into only by letting in evidence and by producing material records and that too before the appropriate forum. Therefore, the very writ petition itself is not maintainable.

4. Considering the facts and circumstances of the case and having regard to the submission made by the learned Standing Counsel for the respondent-Department, this Court is of the view that the petitioner has to approach the appropriate forum for

redressal of his grievance and hence, this writ petition is not maintainable.

5. Accordingly, this writ petition is dismissed as not maintainable granting liberty to the petitioner to approach the Labour Court for seeking appropriate relief. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CSIV)

True Copy

Sub-Assistant Registrar

vj2

To

1. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution
Corporation, No.144, NPKRR Maaligai
Anna Salai, Chennai 600 002.
2. The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution
Corporation, No.144, NPKRR Maaligai
Anna Salai, Chennai 600 002.
3. The Assistant Executive Engineer
Tamil Nadu Generation and Distribution
Corporation, Salem, Salem District.
4. The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation, Salem, Salem District.
5. The Assistant Executive Engineer
Transmission and Constructions
Tamil Nadu Generation and
Distribution Corporations Salem-7
Salem District.

+1 cc to Mr.A.Rajeshkanna Advocate sr.32003

+1 cc to Mr.P.R.Dhilip kumar Advocate sr.32318

W.P.No.19963 of 2016

aa28/06/2016