

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2016
CORAM
THE HONOURABLE MR. JUSTICE R.SUBBIAH
Writ Petition No.39674 of 2016
and
W.M.P.No.33943 of 2016

A.Rathinam

... Petitioner

vs.

1. The Chairman,
TANGEDCO,
Anna Salai,
Chennai - 600 002.
 2. The Chief Engineer (personal),
TANGEDCO,
Anna Salai,
Chennai - 600 002.
 3. The Superintend Engineer,
TANGEDCO,
Perambalur Electricity Distribution Circle,
Perambalur.
- ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 2 and 3 to regularize the service of the petitioner in the TANGEDCO in terms of order dated 25.11.2011 made in W.P.(MD).No.11318 of 2006 passed by this Court as requested in petitioner's representation dated 02.09.2016 with all attended benefits.

For Petitioner : Mr.Pitty Parthasarathy
For Respondents : Mr.R.Varalakshmi

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a Writ of Mandamus, directing the respondents 2 and 3 to regularize the service of the petitioner in TANGEDCO in terms of the order passed by this Court in W.P(MD) No.11318 of 2006 dated 25.11.2011.

3. It is the case of the petitioner that the petitioner has joined service before the first respondent corporation on 31.12.1983 as a contract labour and worked under the third

respondent from the year 1983 to 2006, without any break. Likewise, several persons were working in the respondents corporation as contract labours. Since they have not been regularized by the respondents, the petitioner and 66 others filed a petition before the Hon'ble Labour Welfare Inspector, Perambalur for regularization of their service against the respondents. The Hon'ble Labour Inspector conducted detailed enquiry and by an order in Na.Ka.No.A2500 of 2004 dated 05.12.2014 directed the respondents to regularize their service in the respondents' corporation.

4. As against the said order, the third respondent herein filed a writ petition in W.P.No.11318 of 2006 before this Court, in which the petitioner was cited as 35th respondent. This Court by an order dated 25.11.2011 dismissed the W.P.No.11318 of 2006. As per the order of this Court, the second respondent herein regularized the service of other 66 persons excluding the petitioner alone.

5. Though the petitioner continuously approaching the respondents, for regularization of his service, by way of repeated representations, the respondents have not passed any written order. But, they stated that since the petitioner functioned as village president for the year 2006 to 2011, in Theraiyur Panchayat, he has not been considered for regularization.

6. The post of village Panchayat president is non beneficial post and he was not drawn any salary for the post. The denial of regularization to the petitioner by the respondents on the above ground is unjust because if they regularized his service, he would have definitely resigned the village Panchayat President post and joined in the respondents corporation. Likewise, Mr.Pichapillai and Mr.Tamil Selvan, who were arrayed as respondents 4 and 5, in W.P.No.11318 of 2006, has also been elected as Village Panchayat ward members. Subsequently, since their service has been regularized by the respondents' corporation as per the order of this Court, have resigned their respective local body post and joined in the corporation and at present, they are working.

7. Since the representations given by the petitioner has not been considered, he has sent a detailed representation dated 02.09.2016 to the respondents. But, till date no action has been taken to regularize his service. Hence, the petitioner has come forward with the present petition.

8. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

9. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court, without going into the merits of the claim of the petitioner, directs the petitioner to give a copy of the representation dated 02.09.2016 to the respondents 3 and 4, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order, and on receipt of the same, the respondents 2 and 3 are directed to consider the claim of the petitioner with regard to regularization of his service in the TANGEDCO in terms of the order of this Court made in W.P.No.11318 of 2006 dated 25.11.2011 and pass appropriate order, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

mrp

To

1. The Chairman,
TANGEDCO,
Anna Salai,
Chennai - 600 002.

2. The Chief Engineer (personal),
TANGEDCO,
Anna Salai,
Chennai - 600 002.

3. The Superintend Engineer,
TANGEDCO,
Perambalur Electricity Distribution Circle,
Perambalur.

+1 cc to M/s.G.Varalakshmi Advocae sr 67324

+1 cc to M/s.Pithy Parthasarathy Advocate sr 67624

W.P.No.39674 of 2016

aa05/01/2017