

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.10480 of 2008  
and M.P.No.1 of 2008

M.Vellayan

... Petitioner

Vs.

1. The Chief Engineer (Personnel)  
Tamilnadu Electricity Board,  
Anna Salai, Chennai - 600 002.
  2. The Superintending Engineer (CEDC)  
Tamilnadu Electricity Board,  
Cuddalore Electricity Distribution Circle  
Cuddalore.
- ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to permanently absorb the petitioner as permanent employee in the post of Helper/Sanitary Worker in the establishment of Tamilnadu Electricity Board giving reckoning the past continuous service rendered by him, the petitioner herein, from 01.03.1979.

For Petitioner: Mr.M.Dinesh Hari Sudarsan  
For M/s.Sivam Sivanandraj

For Respondents: Mr.M.Fakkir Mohideen

O R D E R

This Writ Petition has been filed to direct the respondents for absorbing the petitioner as permanent employee to the post of Helper/Sanitary Worker in the establishment of Tamilnadu Electricity Board giving reckoning the past continuous service rendered by the petitioner from 01.03.1979.

2. The petitioner herein belongs to Kattunayagan Community and he was working as a part time scavenger in the Sub Station of the Tamil Nadu Electricity Board at Sethiathope. In the year 1979, he was paid a salary of Rs.60/- per month without any

increments or any other allowances. Subsequently, his pay was increased by Rs.850/- and then he was drawing the same. Thereafter, the petitioner was called for an interview to the post of helper and the interview committee, after scrutiny of all his service records, had issued an identity card for contract labour working in Executive Engineer and Distribution Chidambaram Division. Further, the petitioner's appointment was also recorded in his service book on 09.09.1980.

3. The petitioner would further contend that he had sent several representations to the second respondent herein to absorb him as permanent employee of Tamil Nadu Electricity Board, to which, the second respondent, by its letter dated 24.10.1986 in SE/SAES/Adm.SI/A.2/F PR1363/86, had informed the petitioner that his request for regular appointment could not be considered and asked the petitioner to approach the Chief Engineer (Personnel), the first respondent herein, for confirmation. Thereafter, the petitioner had sent several representations to the Chief Engineer (Personnel) for his absorption, but, there was no response from them and hence, the petitioner has filed an application before the Labour Officer, Cuddalore, for a direction to the Electricity Board to absorb him as permanent employee in their establishment.

4. On 25.03.1991, the Labour Officer, Cuddalore, had passed an order in Application No.1611 of 1990, directing the petitioner, again to approach the Chief Engineer (Personnel), Chennai, for the same relief. Meanwhile, the petitioner had received a Memorandum dated 12.03.1991 from the second respondent, thereby, he was not allowed to continue the work in Sub Station from 01.04.1991.

5. Aggrieved by the above memorandum, the petitioner has filed Writ Petition in W.P.No.5197 of 1991 before this Court, seeking to quash the said memorandum dated 12.03.1991 and to direct the respondents to absorb him as permanent employee in their establishment.

6. The learned counsel appearing for the respondents would submit that they have already considered the petitioner's representation and the petitioner has also been absorbed as permanent employee in their establishment.

7. It could be seen from the records that the persons who were similarly placed like the petitioner had approached this Court to absorb them in a permanent position as they were on Part-time Conservancy Workers and have also filed Writ Petition in W.P.No.10777 of 2003, challenging the proceedings of the respondent board in (Per.) (FB) TANGEDCO Proceeding No.11 dated 02.08.2011, on the ground that the same were issued without

issuing 9(A) notice under the Industrial Disputes Act, 1947. The Division Bench of this Court, heard the said matter and decided the same in favour of the workers on 18.08.2007.

8. Aggrieved by the order of this Court, the respondent board had filed SLP(C)No.10611 of 2008 before the Honourable Supreme Court of India and it was taken up as Civil Appeal No.9438 of 2010. The Honourable Supreme Court of India, by its order dated 26.10.2010, even though declined to interfere with the order of this Court dated 18.08.2007, had passed a modified orders restricting the period for entitlement to regular time scale of pay. The relevant portion of the said order is extracted hereunder:-

".....However, the respondents, Writ Petitioners, will not be entitled to the scale of pay of Rs.600-1100 with dearness allowances with effect from 14.10.1998 but are entitled to the same with effect from the date of filing of the Writ Petition. The impugned order to this limited extent shall stand modified. The appeal is disposed of with no order as to costs."

9. After the said order, it could be further seen from the records that the petitioner in W.P.No.10777 of 2003, has filed Contempt Petition No.675 of 2011 before this Court and this Court, by order dated 22.06.2011, had passed an interim order directing the respondent board to comply with the above order passed by the Honourable Supreme Court of India, within a period of three weeks. As per the direction of this Court, the respondent board had agreed to create 3316 and 2330 numbers of posts of Part Time Conservancy Workers retrospectively from 04.04.2003 and 15.10.2005 respectively and to grant regular time scale of pay at Rs.600-10-700-20-1100 with dearness allowance with retrospective effect from 04.04.2003 or any other subsequent date as per eligibility/entitlement and also for pay of arrears to them accordingly.

10. It could be seen from the counter affidavit filed by the respondents that as per the proceedings of the respondent board dated 02.08.2011 in (Per.) (FB) TANGEDCO Proceeding No.11, the petitioner has been absorbed as permanent employee in the respondent board in the regular time scale of pay with effect from 04.04.2003 and accordingly, the representations of the petitioner has been accepted and has been considered by the respondent board.

11. The learned counsel for the respondents would also submit that since the petitioner has been absorbed as permanent employee to the post of Helper/Sanitary Worker in the establishment of Tamilnadu Electricity Board, nothing survives

in this Writ Petition and hence, sought for dismissal of the same as infructuous.

12. Recording the above submissions made by the learned counsel for the respondents, the Writ Petition is dismissed as infructuous. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer (Personnel)  
Tamilnadu Electricity Board,  
Anna Salai, Chennai - 600 002.
2. The Superintending Engineer (CEDC)  
Tamilnadu Electricity Board,  
Cuddalore Electricity Distribution Circle  
Cuddalore.

+1cc to Mr.M.Fakkir Mohideen, Advocate Sr.41539  
+1cc to Mr.Sivam Sivanandraj, Advocate Sr.41506

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srg 18/09/2018

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