



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2018

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHANW.P(MD)No.2052 of 2011

V.Dharmarajan

: Petitioner

Vs.

1.The Chariman,
Tamil Nadu Electricity Board,
800 - Anna Salai, Chennai - 600 002.

2.The Chief Engineer,
Tamil Nadu Electricity Board,
Tirunelveli Region, Maharaja Nagar,
Tirunelveli - 11.

3.The Chief Engineer / Personnel,
Tamil Nadu Electricity Board,
800 - Anna Salai, Chennai - 600 002.

4.The Superintending Engineer,
Tamil Nadu Electricity Board,
Virudhunagar Electricity Distribution Circle,
Virudhunagar.

5.The Station Director,
All India Radio,
Cantonment,
Trichirapally.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent's Lr.No.016466/119/G12/G121/2006-6 dated 12.02.2010, to quash the same and consequently direct the first respondent, the Chairman, TNEB to extend the increased pension and Gratuity benefits to the petitioner for the service period of 4 years 4 months he rendered under the fifth respondent.

For Petitioner :Mr.T.Arul

For Respondents 1 to 4 :Mr.G.Kasinathadurai
Standing CounselFor Respondent No.5 : Mr.S.Jeyasingh
Senior Panel Counsel:Mr.P.Gunasekaran,
Appointed as Amicus Curiae

O R D E R

The petitioner has filed the present writ petition for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent's Lr.No.016466/119/G12/G121/2006-6 dated 12.02.2010, to quash the same and consequently to direct the



first respondent, the Chairman, TNEB to extend the increased pension and Gratuity benefits to the petitioner for the service period of 4 years 4 months he rendered under the fifth respondent.

2. The case of the petitioner is that he was appointed in the All India Radio and that consequent to his appointment as Assistant Electrical Engineer in the Tamil Nadu Electricity Board [hereinafter referred to as 'TNEB'], he was relieved of his duty with effect from 24.03.1979 and TNEB has appointed him temporarily in the said post by an order dated 15.03.1979.

3. It is the further case of the petitioner that when employees like the petitioner have been absorbed in TNEB, the past period of service have got to be taken into account for the purpose of terminal benefits and that on 10.08.1993, taking note of G.O.Ms.No.404, [Finance (BPE) Department] dated 06.06.1991 and the proceedings of TNEB in B.P.(FB).No.56 dated 12.10.1992, TNEB has passed an order granting the petitioner, the benefit of considering his entire period of service rendered under the All India Radio. The relevant portion of the order passed by TNEB dated 10.08.1993, reads as follows:

"In accordance with the provisions contained in the Board proceedings second cited the services rendered by Thiru.V.Dharmarajan, in the All India Radio, as Engineering Assistant for the period from 4.12.74 to 24.3.79 (both days inclusive) be included in his Service Book for the purpose of the grant of pension and other terminal benefits."

4. The petitioner was also asked to pay proportionate amount with regard to the prorata of pension, even though the same is not required. By order dated 15.03.2007, the All India Radio has also stated that the services rendered under All India Radio was a pensionable service and that they have no objection to count the services rendered in All India Radio for pensionary benefits. By order dated 02.07.2009, the Chief Engineer of TNEB has ratified the proceedings and observed that the services rendered by the petitioner in All India Radio from 1974 - 1979 shall be counted for the purpose of pensionary benefits.

5. The sum and substance of the respondents is that it is true that the petitioner has joined in All India Radio and was relieved from the services. But, he was not at all absorbed in TNEB. The petitioner was appointed on temporary basis and for the services rendered in the Electricity Board, the entire amount has been paid. The petitioner cannot as a matter of right seek to count the period of service rendered in All India Radio, for the purpose of pension, as the petitioner was appointed and not absorbed. Absorption into the services of TNEB is mandatory and in the absence of the same, the petitioner is not entitled for increased terminal benefits.



6. Heard both parties.

7. It is not in dispute that the petitioner joined in service in All India Radio, relieved and was appointed in Electricity Board on temporary basis. There were two proceedings dated 10.08.1993 and 02.07.2009 which makes it very clear that the petitioner's services rendered in All India Radio has been taken into account for the purpose of pensionary benefits. Even though the word 'absorption' is not used and the order says that the petitioner was appointed on temporary basis, the various proceedings of TNEB would make it clear that they have treated the petitioner as one of an absorbed employee into the services of TNEB and not as a fresh appointee. All India Radio has also stated that they have no objection for counting the period of service of the petitioner between 1974 - 1979, for the purpose of pensionary and terminal benefits.

8. Taking note of the totality of the pleadings and the documents produced before this Court, it is clear that the petitioner is deemed to have been absorbed into the services of TNEB and that the past period of service rendered in All India Radio will have to be taken into account for the purpose of pensionary benefits. This Court is of the view that the terminal benefits otherwise due to the petitioner i.e., the difference in terminal benefits by taking into account the entire services rendered under All India Radio will have to be calculated and paid within a period of three [3] months from the date of receipt of a copy of this order. If the amount is not paid within the time stipulated, it will carry interest at 12% p.a., from the date of filing of the writ petition.

9. With the above directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

+1CC TO MR.G.KASINATHA DURAI, ADVOCATE IN SR.NO.78684.

+1CC TO M/s. S.JEYASINGH ADVOCATE IN SR.NO.79045.

MR

DS SV SAR-4 09.10.2018 3P/3C

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