

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.14315 of 2012

and

M.P.No.1 of 2012

A.Nabi

... Petitioner

Vs.

1.Tamilnadu Generation and Distribution Corporation,
Rep by its Chairman,
No.144, Annasalai, Chennai - 2.

2.The Chief Engineer (Personnel),
Tamilnadu Generation and Distribution Corporation,
No.144, Annasalai,
Chennai - 2.

3.The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Villupuram

... Respondents

Prayer: Civil Revision Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified Mandamus calling for the entire records made in the impugned letter of the 3rd respondent passed in Let.No.240-2/VMe.Pa.Va.Vim/Nipe.2/udavi.2/Ko.O.Tho.2008 dated 24.11.2008 and quash the same and direct the respondents to absorb the petitioner as regular helper w.e.f.1996 with all monetary and consequential benefits.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.Anand Gopalan for
M/S.T.S.Gopalan & Co.

O R D E R

Justice Khalid Committee was appointed to identify the contract labourers to ascertain and regularise their services in the electricity board. The petitioner name was included in the list of casual labourers and was called for interview by proceedings No.Ku.A.No.381/NIR1/U6/SO.O.TH0/96-3 dated 10.05.1996.

2. According to the petitioner his name was wrongly named as Ruby instead of "Nabi" and hence, he was asked to

come on a later date and thereafter, he obtained a certificate from Village Administrative Officer and an experience certificate from the Assistant Engineer of the respondent on 23.05.1996 and appeared before the committee on 25.05.1996. Even then, he was not selected and he made a representation on 30.10.1998 for reconsideration. Again on 20.03.2000 he made another representation for issuance of appointment order. Even then, no response was coming forth from the respondents, therefore, he made another representation on 26.11.2007.

3. The respondent in their letter dated 15.12.2007 replied that his representation was forwarded to the concerned division for further consideration. The petitioner had made another representation on 26.12.2007 followed by 26.03.2008, to which the respondent by impugned proceedings dated 24.11.2008 had rejected the same on the ground that the petitioner was refrained himself from attending the office from 20.08.2004. He was also directed to produce the proceedings of the committee calling him for interview. Again the petitioner made a representation on 12.12.2008, since he got information dated 16.16.2011 under Right to Information Act that he was not considered for absorption as he did not attend work from 2004. The petitioner made yet another representation on 09.01.2012 and filed the above writ petition challenging the rejection order dated 24.11.2008. According to the petitioner, he was a contract labourer on the date of selection done by Justice Khalid Committee. Infact he was issued a call letter dated 10.05.1996, in view of inclusion of his name in the contract workers list. Only because the name wrongly printed as Ruby instead of "Nabi", he was not selected. Therefore, the non selection is erroneous and he should be given absorption as a regular labourer with effect from 1996.

4. Controverting the fact, the respondents have filed a counter affidavit stating that the petitioner refrained himself from attending the office from 20.08.2004 and hence, his case was not considered.

5. Heard the learned counsel on both sides.

6. Admittedly, the petitioner had appeared on 17.05.1996 before the Justice Khalid Commission. It appears that his name was wrongly typed as Rubi instead of "Nabi" and was asked to appear on a subsequent date. On the subsequent date it is stated that he produced the certificate issued by the Village Administrative Officer and Assistant Engineer dated 20.05.1996 and 23.05.1996 respectively. But he was not selected. Aggrieved over the same, the petitioner made a representation on 20.03.2000 i.e., after a period of four years. The delayed approach of the petitioner after a long silence of four years by itself defeats his right and it amounts to waiver of his right over non-selection. Thereafter, as stated above, the petitioner made repeated representations on 26.11.2007, 26.03.2008, 12.12.2008 and 09.01.2012. Once the

petitioner's request was not granted as early as on 1996, he should have approached the Court then and there. Even assuming that the non absorption was intimated to the petitioner, he should have approached the appropriate forum against non absorption. But in the instant case it was informed to him. Having failed to challenge the order in time, the petitioner cannot rest his case on repeated representations and thereby, claim continuous cause of action. Therefore, as rightly contended by the learned counsel for the respondent the claim of writ petition is hit by delay and laches.

7. However, a plea is made by the learned counsel that the petitioner would produce the original certificate copies issued by the Village Administrative Officer and Assistant Engineer dated 20.05.1996 and 23.05.1996 respectively to the respondents and pray for the consideration of the same. Whether the certificates issued are valid, genuine, acceptable or not can be verified only by the respondent. In view of the same, a direction is issued to the petitioner to produce all the certificates documents in original before the respondent's officials for considering the same for absorption.

8. Since it is submitted that the Justice Khalid committee proceedings were concluded by order of Hon'ble Supreme Court with effect from 19.01.1995 in Contempt Petition No. 356 of 1993, it cannot be considered under that committee. However, the respondents are directed to consider the genuineness of the certificate produced by the petitioner and pass appropriate orders either accepting or rejecting it within a period of twelve weeks from the date of its submission for absorption in future.

9. With the above observation, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

bri

To

1.The Chairman,
Tamilnadu Generation and Distribution Corporation,
No.144, Annasalai, Chennai - 2.

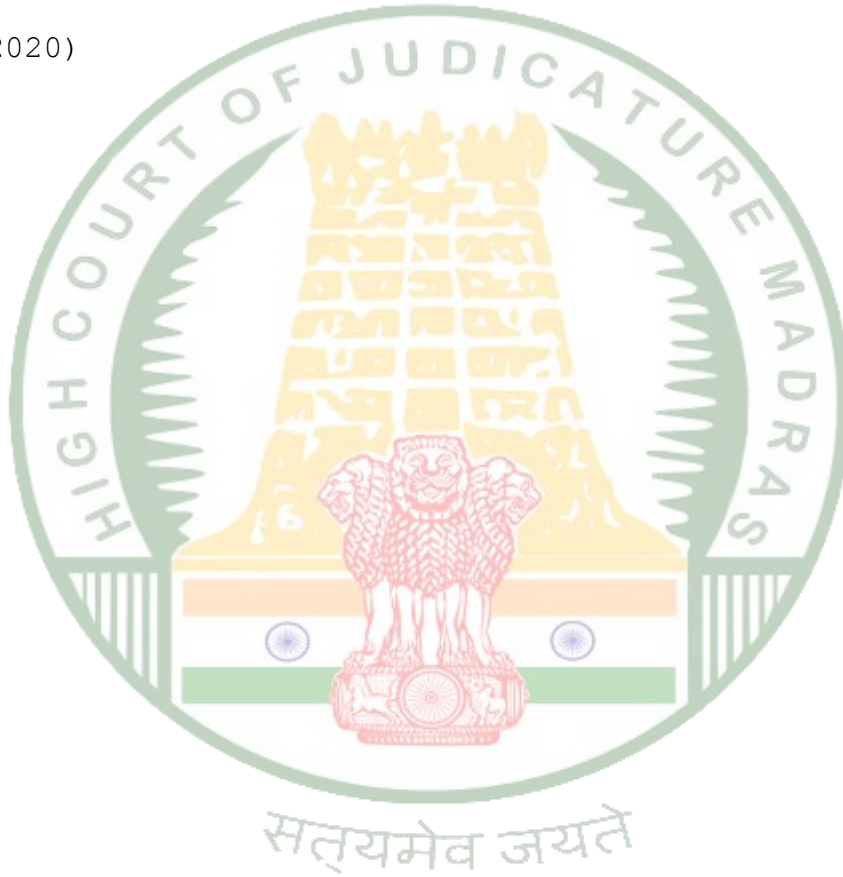
2.The Chief Engineer (Personnel),
Tamilnadu Generation and Distribution Corporation,
No.144, Annasalai,
Chennai - 2.

3.The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Villupuram.

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No. 103528
+1cc to Mr.T.S.Gopalan & Co, Advocate, S.R.No. 103569

WP.No.14315 of 2012
and
M.P.No.1 of 2012

BP (CO)
GN(17/02/2020)



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