

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8150 of 2009

S.Padma

...Petitioner

Vs

1. The Tamil Nadu Electricity Board  
rep. by Chief Engineer (Personal),  
800, Anna Salai,  
Chennai-600 002.
2. The Chief Engineer/Personal,  
Tamil Nadu Electricity Board,  
800, Anna Salai,  
Chennai-600 002.
3. The Superintending Engineer,  
General Construction Circle,  
Tamil Nadu Electricity Board,  
Coimbatore-641 012.
4. The Deputy Chief Internal Audit Officer  
(Pension), Tamil Nadu Electricity Board,  
800, Anna Salai, Chennai-600 002. .... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay the full pension to the petitioner by taking into account the break in service from 18.08.1970 to 04.07.1983 for the computation of the pension and accrued arrears from 31.3.2006 together with interest from the date the same has become due till the date of payment to the petitioner.

For Petitioner : Ms.V.Pushpa

For Respondents : Mr.P.R.Dhilip Kumar

O R D E R

The Writ Petition has been filed by one S.Padma, who was permitted to rejoin duty as a fresh candidate by an order passed by the First Bench of this Court in W.A.No.268/1977 dated

25.11.1982, seeking to issue a Writ of Mandamus, directing the respondents to pay the full pension to the petitioner by taking into account the break in service from 18.08.1970 to 04.07.1983 for the computation of the pension and accrued arrears from 31.3.2006 together with interest from the date the same has become due till the date of payment to the petitioner.

2. Learned Counsel appearing for the petitioner submitted that the petitioner was appointed as Emergency Junior Assistant in Pykara Electricity Systems through the Employment Exchange and she joined duty in the Office of the Deputy Chief Accountant, Pollachi on 07.02.1970 F.N. Thereafter, as per the instructions of Chief Engineer/Electricity, she was again reappointed by the Superintending Engineer and joined duty on 15.06.1970 F.N. Thereafter, she applied for Maternity Leave from 18.08.1970 to 17.10.1970 and got relieved on 17.08.1970 A.N. While so, the Superintending Engineer, Pykara Electricity System terminated her service w.e.f. 17.08.1970 A.N.

3. The learned Counsel for the petitioner further submitted that aggrieved against the termination order, the petitioner filed W.P.No.6491/1973 before this Court and the same came to be allowed against which the petitioner has preferred a Writ Appeal No.268/1977 and in that Writ Appeal, the First Bench of this Court by order dated 25.11.1982 on the basis of the Undertaking given by the Counsel appearing for the petitioner herein/ the appellant therein on the ground that the petitioner would be taken into the Board's service as a fresh candidate and she should not claim any backwages, seniority or other service benefits and that the petitioner should accept the above conditions in writing before joining duty, disposed of the same. Thereafter, the petitioner was allowed to join as a fresh candidate without the benefits of back wages, seniority and other benefits on 03.02.1983.

4. The learned Counsel for the petitioner also submitted that the petitioner was also given the benefit of condonation of break-in-service only for the purpose of gratuity because the Tamil Nadu Electricity Board has considered the request of the petitioner to condone the break in service treating the break as service in the Board by Proceedings dated 17.9.1985 passed by the Secretary, Tamil Nadu Electricity Board. The Proceedings also shows that the break in service due to termination of service from 18.8.1970 to 4.7.1983 of S.Padma, Junior Assistant, Udumalpet Electricity Systems, be condoned as a special case.

5. While so, taking support from the said proceedings in R.P.No.(Ch.) No.488, Administrative Branch dated 17.9.1985, the learned Counsel appearing for the petitioner further submitted that when the Tamil Nadu Electricity Board in its order dated

17.09.1985 as a special case has condoned the break in service from 18.8.1970 to 4.7.1983 of the petitioner for the purpose of gratuity, the same benefit can be extended to count the break in service that was condoned for the purpose of pension also.

6. Taking support from the counter affidavit filed by the respondents, the learned Counsel for the respondents submitted that the present Writ Petition is liable to be dismissed.

7. I find no merit in the contention of the learned Counsel for the petitioner for the reason that since the First Bench of this Court in its order dated 25.11.1982 while disposing of the W.A.No.268/1977 has made it absolutely clear that the petitioner would be taken into the Board's service as a fresh candidate and she should not claim any back wages, seniority or other service benefits for the reason that the petitioner has been given the benefit of condonation of break in service for the period she was out of service, namely, from 18.8.1970 to 4.7.1983 which was given for the purpose of gratuity cannot be mixed up wrongly for pension also. If this Court accepts the case of the petitioner, it would amount to violating or interfering with the order passed by the Division Bench of this Court in W.A.No.268/1977 dated 25.11.1982.

8. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer (Personal),  
Tamil Nadu Electricity Board,  
800, Anna Salai,  
Chennai-600 002.

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

3. The Superintending Engineer,  
General Construction Circle,  
Tamil Nadu Electricity Board,  
Coimbatore-641 012.

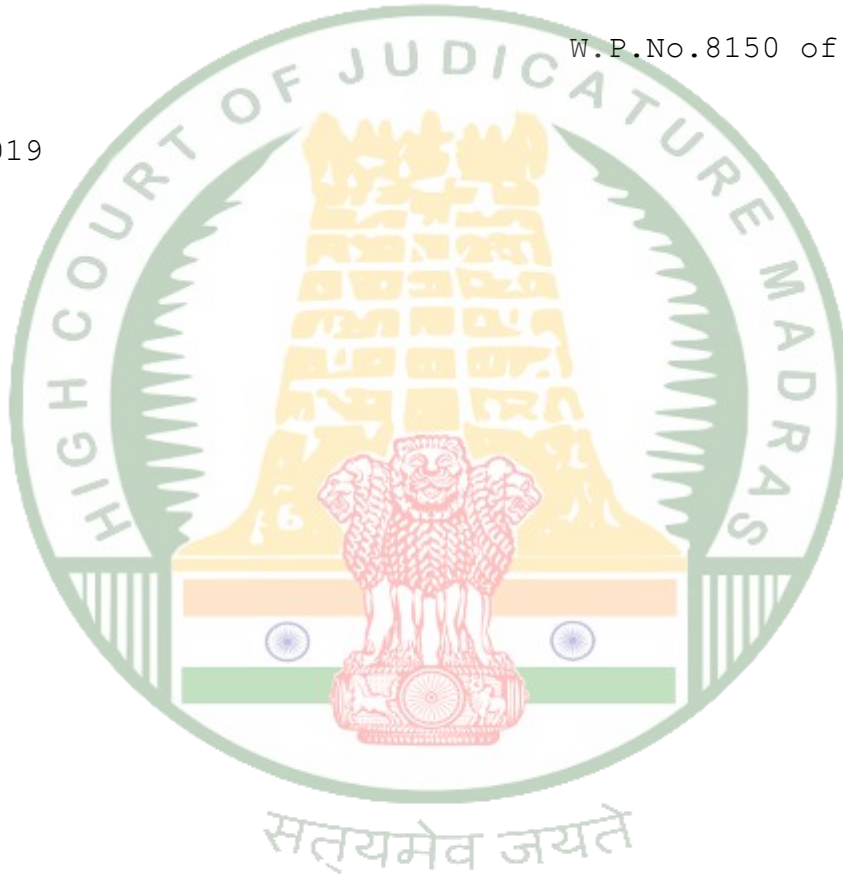
4. The Deputy Chief Internal Audit Officer  
(Pension), Tamil Nadu Electricity Board,  
800, Anna Salai, Chennai-600 002.

+lcc to Ms.V.Pushpa, Advocate Sr.27038

+lcc to Mr.P.R.Dhilipkumar, Advocate Sr.26533

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