

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.2163 TO 2182 OF 2018

R.SIVAN	... PETITIONER IN WP.No.2163 of 2018
E.PERIYASAMY	... PETITIONER in WP.No.2164 of 2018
V.KALYANASUNDARAM	... PETITIONER in WP.No.2165 of 2018
R.RAMADURAI	... PETITIONER in WP.No.2166 of 2018
P.SHANMUGAVEL	... PETITIONER in WP.No.2167 of 2018
V.SAKTHIVEL	... PETITIONER in WP.No.2168 of 2018
G.GOVINDAN	... PETITIONER in WP.No.2169 of 2018
N.MURUGANANDAM	... PETITIONER in WP.No.2170 of 2018
P.MANOCHARAN	... PETITIONER in WP.No.2171 of 2018
K.PALANI	... PETITIONER in WP.No.2172 of 2018
M.KUMARAVEL	... PETITIONER in WP.No.2173 of 2018
S.SELVARAJ	... PETITIONER in WP.No.2174 of 2018
V.SUBRAMANI	... PETITIONER in WP.No.2175 of 2018
R.MANI	... PETITIONER in WP.No.2176 of 2018
S.MARUDAI	... PETITIONER in WP.No.2177 of 2018
P.MURUGAN	... PETITIONER in WP.No.2178 of 2018
V.NAGARAJ	... PETITIONER in WP.No.2179 of 2018
K.GOPAL	... PETITIONER in WP.No.2180 of 2018
V.KULANDAIVEL	... PETITIONER in WP No.2181 of 2018
D.JAYABALAN	... PETITIONER in WP No.2182 of 2018

Vs.

1. TAMIL NADU ELECTRICITY GENERATION AND DISTRIBUTION CORPORATION LIMITED,
REP. BY ITS CHAIRMAN CUM MANAGING DIRECTOR,
NO.144, ANNA SALAI,
CHENNAI - 600 002.

.. RR1 & 2 (IN ALL)

2. CHIEF ENGINEER (PERSONNEL)
TAMIL NADU ELECTRICITY GENERATION AND DISTRIBUTION CORPORATION LIMITED,
NO.144, ANNA SALAI,
CHENNAI - 600 002.

3. SUPERINTENDING ENGINEER
ERODE ELECTRICITY DISTRIBUTION CIRCLE,
TAMIL NADU ELECTRICITY GENERATION AND DISTRIBUTION CORPORATION LIMITED,
948, E.V.N.ROAD, ERODE 638 009.

.. R3 in WP.Nos.2163 to 2172 of 2018

3. THE SUPERINTENDING ENGINEER
KARUR ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU ELECTRICITY GENERATION AND DISTRIBUTION CORPORATION LTD., NO.3, KOVAI MAIN ROAD,
KARUR- 639 002.

.. R3 in WP.Nos.2173 to 2179 of 2018

3. THE SUPERINTENDING ENGINEER
NAMAKKAL ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU ELECTRICITY GENERATION AND DISTRIBUTION CORPORATION LTD., SUBHA COMPLEX,
TIRUCHENGODU ROAD, NAMAKKAL-637 001.

.. R3 in WP.NO.2180 of 2018

3. THE SUPERINTENDING ENGINEER,
KALLAKURICHI ELECTRICITY DISTRIBUTION CIRCLE,
TAMIL NADU ELECTRICITY GENERATION AND DISTRIBUTION CORPORATION LTD.,
JDC, KALLAKURICHI- 606 202.

.. R3 in WP.No.2181 of 2018

3. THE SUPERINTENDING ENGINEER,
KALLAKURICHI ELECTRICITY DISTRIBUTION CIRCLE,
TAMIL NADU ELECTRICITY GENERATION AND DISTRIBUTION CORPORATION LTD.,
KEDC, KALLAKURICHI- 606 202.

.. R3 in WP.No.2182 of 2018

Prayer in all WPs:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the action of the respondent Corporation in not taking into account of the 50% of the service rendered as temporary casual labourers/ nominal muster roll for the purpose of pension as illegal, arbitrary and contrary to law and consequently direct the respondents to take into account of the 50% of the service rendered by the petitioner as temporary casual labourer/ nominal muster roll while calculating pension and on that basis arrive at the pension and pay the same on the superannuation of the petitioner.

For Petitioner : Mr.Balan Haridoss (in All)

For Respondents : Mr.S.Haroon A Rasheed
for M/s.T.S.Gopalan & Co. (in All)

COMMON ORDER

The petitioners have filed these writ petitions seeking issuance of Writ of Declaration, declaring the action of the respondent Corporation in not taking into account of the 50% of the service rendered as temporary casual labourers/ nominal muster roll for the purpose of pension as illegal, arbitrary and contrary to law and to consequently direct the respondents to take into account of the 50% of the service rendered by the petitioner as temporary casual labourer/ nominal muster roll while calculating pension and on that basis arrive at the pension and to pay the same on the superannuation of the petitioner.

2.Heard the arguments advanced on either side.

3.The case of the petitioners is that the erstwhile Tamil Nadu Electricity Board was doing the operation and maintenance work by employing temporary Casual Labourer. The employees so engaged were termed to be 'Helpers' and they were doing the work of digging the pits, laying pole, giving the connections, fixing new meters etc. The employees were engaged directly by Assistant Engineer/ Junior Engineers and were paid monthly wages by the erstwhile TNEB. The petitioners also joined as temporary Casual Labourers.

4.It is the further case of the petitioners that there had been demand for absorption of employees working like the petitioners and several employees including the petitioners were absorbed. While calculating the terminal benefits, only the services rendered from the date of absorption had been taken into account and the services rendered as temporary Casual

Labourers/ Nominal Muster Roll prior to absorption had not been taken into account. Hence, the petitioners have filed these writ petitions.

5.It is the further case of the petitioners that in respect of the employees who were engaged continuously by terming them as Daily wages/ consolidated wages/ Honorarium and later absorbed into regular service, the Government issued G.O.No.408 dated 25.08.2009 directing to take 50% of services rendered prior to absorption for purpose of pension and the Corporation has also adopted the said Government Order by issuing (Per) FB TANGEDCO Proceeding No.31 dated 08.09.2011. However, when the petitioners made representation in this regard, the second respondent took a stand that in their service record there is no detail available with regard to temporary Casual Labourer and with regard to payment of wages for that period. Aggrieved by the same, the petitioners have filed these writ petitions.

6.The learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondents would submit that similar issue has already been dealt with by this Court in W.P.Nos.31416 to 31435 of 2017 on 17.10.2019 and hence, similar order may be passed in these writ petitions also.

7.Considering the limited request and for ready reference, the relevant portion of the order dated 17.10.2019 made in W.P.Nos.31416 to 31435 of 2017 is extracted hereunder:

"6.In this regard, the petitioners are also entitled to submit their respective applications along with the documents and necessary proof to establish their employment as well as the service details. The Board is also entitled to verify the service records as well as other details and particulars with reference to the original records as well as the regulations as applicable to the employees of the Board. All these adjudications are to be done by the competent authorities and the High Court cannot adjudicate these factors in a writ jurisdiction.

7.These being the complex facts presented before this Court in these writ petitions, this Court thought fit that the rights of either of the parties need not be closed at this stage, as facts are also disputed. Under these circumstances, the best course of action would be to allow

the authorities to adjudicate the factual issues, so as to arrive at a conclusion regarding the entitlement of the employees as well as the benefits with reference to the Board proceedings issued in FB TANGEDCO No.31 DATED 08.09.2011.

8.Under these circumstances, this Court is inclined to direct the respondents to consider the representations submitted by the writ petitioners, adjudicate the same and pass a speaking order on merits and in accordance with law as expeditiously as possible within a period of four months from the date of receipt of a copy of this order."

8.In view of the above, the petitioners are directed to submit their applications/ representations along with relevant documents and necessary proof to establish their employment as well as service details before the respondents. If any such representations are received, the respondents are directed to consider the representations submitted by the writ petitioners, adjudicate the same and pass a speaking order on merits and in accordance with law, within a period

of four months from the date of receipt of the representations submitted by the petitioners.

9.The writ petitions are accordingly disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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+lcc to Mr.Balan Haridoss , Advocate, S.R.No.91214

+lcc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.91734

W.P.Nos.2163 to 2182 of 2018

RV(CO)
CS/18/12/2019