



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.2660 of 2017

K.Kanthavel

... Petitioner

-Vs-

The Superintending Engineer,
Tamil Nadu Generation & Distribution Corporation,
Ramnad Electricity Distribution Circle,
Ramnad District.

... Respondent

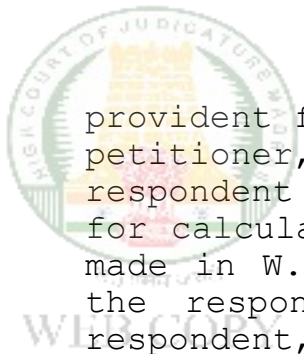
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Memo No.01084/Adm.O/Adm.1/A2/2017, dated 03.02.2017 on the file of the respondent and quash the same as illegal and consequently, to direct the respondent to count the regular service rendered in the Tamil Nadu Magnesium and Marine Chemicals Limited (TMML) from 09.10.1987 to 18.01.2002 along with the service in TNEB / TANGEDCO., from 19.01.2002 to 31.05.2016 for the calculation of pension within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondent : Mr.S.Dhayalan

ORDER

This Writ Petition is filed to quash the order of the respondent dated 03.02.2017 and to direct the respondent to count the regular service rendered in the Tamil Nadu Magnesium and Marine Chemicals Limited (hereinafter referred to as 'the TMML) from 09.10.1987 to 18.01.2002 along with the service in TNEB / TANGEDCO., from 19.01.2002 to 31.05.2016 for the calculation of pension, within the time stipulated by this Court.

2.According to the petitioner, he was serving as Selection Grade Assistant in the TMML from 09.10.1987 to 18.01.2002. Due to loss, the TMML was wound up on 22.03.2001. As per the order of this Court, the respondent absorbed the petitioner in service. The petitioner was working as Assessor from 19.01.2002 to till the date of his retirement i.e., on 31.05.2016. On the claim petition filed by the petitioner, the official liquidator has paid salary,



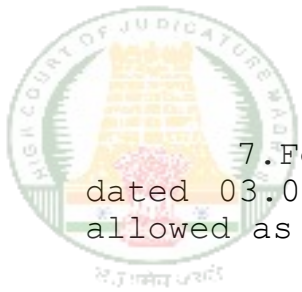
provident fund, leave salary to the petitioner upto 18.01.2002. The petitioner, after his retirement, has made a representation to the respondent for taking into account the service rendered in the TMML for calculating pension. This Court, by the order dated 29.07.2016 made in W.P.(MD)No.13559 of 2016 filed by the petitioner, directed the respondent to consider his representation on merits. The respondent, by the impugned order dated 03.02.2017, has rejected the claim of the petitioner. Hence, the petitioner has come out with the present Writ Petition, challenging the said order.

3.The learned counsel appearing for the petitioner contended that as per the Board proceedings dated 11.01.2014, the petitioner is entitled for pension, taking into account the service rendered by him in the TMML. The petitioner has not suppressed the receipt of provident fund, leave salary, gratuity and medical benefits. The impugned order of the respondent is passed without properly considering the claim of the petitioner and passed without application of mind.

4.The learned counsel appearing for the respondent submitted that the official liquidator paid all the amounts due and payable to the petitioner. The petitioner was absorbed by the respondent, as a new entrant. He is not entitled to count his past service rendered in the TMML and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondent and perused the materials available on record carefully.

6.From the materials on record, it is seen that the TMML, wherein the petitioner was working from 09.10.1987 to 18.01.2002, was wound up. As per the order of this Court, the petitioner was absorbed by the respondent Board on 19.01.2002 and as per the order of this Court, the petitioner's salary was fixed, as he was receiving salary in the TMML and the respondent paid the same. It is an admitted fact that the official liquidator paid the salary and other benefits to the petitioner on 18.01.2002. The petitioner is not claiming provident fund, gratuity, leave salary, medical benefits from the respondent for the service rendered by him in the TMML. The respondent has erroneously rejected the claim of the petitioner to count his service rendered in the TMML for calculating pension. The respondent has not denied the claim of the petitioner that he is entitled to count 50% of his service rendered in the TMML for calculation of pension as per the Board proceedings dated 11.01.2014. From the impugned order of the respondent dated 03.02.2017, it is seen that the respondent, without considering the claim of the petitioner to count his service rendered in the TMML for the period from 09.10.1987 to 18.01.2002 for calculating pension and without giving any finding, has rejected the claim of the petitioner on erroneous reason. This amounts to non-application of



7. For the above reasons, the impugned order of the respondent dated 03.02.2017, is hereby quashed and this Writ Petition stands allowed as prayed for. No costs.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

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To

The Superintending Engineer,
Tamil Nadu Generation & Distribution Corporation,
Ramnad Electricity Distribution Circle,
Ramnad District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-93433[F] dated
22/10/2019)

W.P. (MD) No.2660 of 2017
21.10.2019

MYR

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