

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 21549 of 2019
and
W.M.P. No. 20739 of 2019

1.A.Gunasekaran
2.C.Arul

... Petitioners

-vs-

1.The Superintending Engineer,
Construction and Improvement
Tamil Nadu Electricity Board,
Tamil Nadu General and Distribution Corporation Ltd.,
TANGEDCO/TANTRANSCO,
Cuddalore Electricity Distribution Circle,
Capper Hills, Cuddalore,
Cuddalore District.

2.The Executive Engineer,
Construction and Improvement
Tamil Nadu Electricity Board,
Tamil Nadu General and Distribution Corporation Ltd.,
TANGEDCO/TANTRANSCO,
Chidambaram Electricity Distribution Circle,
Chidambaram,
Cuddalore District.

3.The Assistant Executive Engineer, (O&M),
Construction and Improvement
Tamil Nadu Electricity Board,
Tamil Nadu General and Distribution Corporation Ltd.,
TANGEDCO/TANTRANSCO,
Kattumannarkoil Electricity Distribution Circle,
Kattumannarkoil, Cuddalore District.

4.The Chief Engineer, Personnel,
Tamil Nadu Electricity Board,
Tamil Nadu Generation and Electricity,
Distribution Corporation Ltd.,
No.144, 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 regularize the petitioners service by taking note of the proposal sent by the 2nd and 3rd respondents dated 26.03.2013.

For Petitioners: Mr. C.Prakasam

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

O R D E R
(through video conference)

Heard Mr. C.Prakasam, Learned Counsel for the Petitioners and Mr. Anand Gopalan, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for a direction to the Respondents to regularize the service of the Petitioners by taking note of the proposal dated 26.03.2013 sent by the Second and Third Respondents.

3. Learned Counsel for the Respondents submits that the proceedings dated 26.03.2013 in the file of the Second and Third Respondents do not in any manner relate to any proposal for regularization in service of the Petitioners as claimed by them. It is further highlighted that the Division Bench of this Court in Superintendent Engineer, Nagapattinam -vs- Inspector of Labour [(2009) 4 MLJ 472] has earlier considered the claims made by persons for absorption in Tamil Nadu Electricity Board (hereinafter referred to as 'TNEB' for short and now renamed as 'TANGEDCO') and has ruled that the same would have to be determined only on the basis of the Settlement dated 10.08.2007 entered by TNEB with the Labour Unions under Section 12(3) of the Industrial Disputes Act, 1947, which has been given effect in the Board Proceedings in (Per) B.P. (FB) No. 44 dated 06.09.2007 and Per.B.P. (CHAIRMAN) No. 9 dated 09.01.2008 issued by the Administrative Branch of Tamil Nadu Generation and Distribution Corporation Limited (hereinafter referred to as 'TANGEDCO' for short). In a number of subsequent cases that have followed, this Court had reiterated that legal position.

4. In view of the aforesaid submissions made, Learned Counsel for the Petitioners seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioners to work out their rights in the aforesaid manner. He has also filed a memo to that effect, which is placed on record.

5. Accordingly, this Court without expressing any view on the merits of controversies involved and without prejudice to the rival contentions of the respective parties in this Writ Petition, requires the concerned authority of TANGEDCO to examine the claim of the Petitioners for absorption in service in terms of the Settlement dated 10.08.2007 entered by TNEB with the Labour Unions under Section 12(3) of the Industrial Disputes Act, 1947, which has been given effect in the Board Proceedings in (Per) B.P. (FB) No. 44 dated 06.09.2007 and Per.B.P. (CHAIRMAN) No. 9 dated 09.01.2008 issued by the Administrative Branch of TANGEDCO, in the following manner:-

- (i) The Petitioners shall submit their application to the Superintending Engineer, Cuddalore Electricity Distribution Circle, TANGEDCO, Cuddalore along with a copy of the same to the Chief Engineer (Personnel), Tamil Nadu Generation and Distribution Corporation Limited, Eighth Floor, Eastern Wing, NPKRR Maligai, 144, Anna Salai, Chennai - 600 002 supported by relevant documents to substantiate their claim for absorption in service, on or before 30.09.2020;
- (ii) If the concerned authority after the scrutiny of the application is not satisfied with the prescribed requirements or eligibility criteria for extending that benefit to the Petitioners, the deficiencies in that regard shall be informed in writing to them requiring the same to be furnished within a time frame of not less than 10 working days that may be granted for that purpose.
- (iii) In the event of the concerned authority not being satisfied with the compliance of the requirements even thereafter, an enquiry shall be conducted affording opportunity of personal hearing to the Petitioners to explain their position in that regard;
- (iv) Thereafter, the application of the Petitioners shall be considered by the concerned authority on merits and in accordance with law dealing with each of the contentions and a reasoned order shall be passed, which shall be communicated to the Petitioners under written acknowledgment by 31.12.2020.

The Writ Petition is dismissed as withdrawn with liberty to the Petitioners to make necessary application for absorption in service on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vjt/dm

To

- 1.The Superintending Engineer,
Construction and Improvement
Tamil Nadu Electricity Board,
Tamil Nadu General and Distribution Corporation Ltd.,
TANGEDCO/TANTRANSCO,
Cuddalore Electricity Distribution Circle,
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- 4.The Chief Engineer, Personnel,
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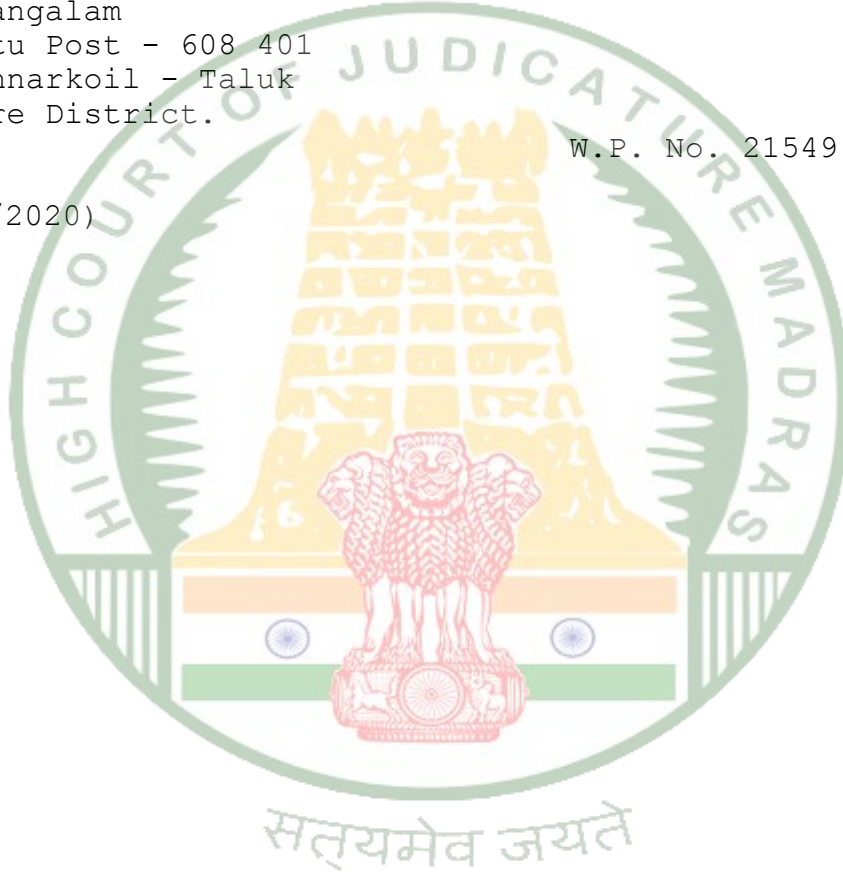
Copy to:

1.A. Gunasekaran
S/o.Arumugam
Mandapam Street
Poolanmedu Village Post
Chidambaram Taluk
Cuddalore District.

2.C. Arul
S/o.Chellaperumal
Kamban Nagar
Nandhimangalam
Athipattu Post - 608 401
Kattumannarkoil - Taluk
Cuddalore District.

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SSV(CO)
GMY(11/09/2020)



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