

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 19433 of 2011

1.V.Sekar
2. L.Nagarajan
3. M.I.Hidayath Basha
4. M.Sivalingam
5. S.Vijayakumar ... Petitioners

-vs-

1. The Tamil Nadu Electricity Board,
Represented by its Chairman,
801, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer,
Mettur Thermal Power Station,
Mettur Dam - 636 406.
3. The Superintending Engineer,
Mettur Thermal Power Station,
Mettur Dam - 636 406. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to regularise the services of the petitioners as employees of Tamil Nadu Electricity Board under the second respondent at Mettur Dam with effect from the date the other contract labourers are being regularized.

For Petitioners : Mr.S.Silambanan
Senior counsel
for M/s.Profexs Associates

For Respondents : Mr.Harron
Standing counsel
for M/s.T.S.Gopal & Co

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to regularize the services of the petitioners as employees of Tamil Nadu Electricity Board under

the second respondent at Mettur Dam with effect from the date the other contract labourers are being regularized.

2. According to the petitioners, they were engaged or working for seven to eight years or nine years at the respondent Mettur Thermal Power Station and in order to seek regularization, they made several attempts, however, those attempts ended in failure. Therefore, at one point of time, they approached this Court by filing the Writ Petition in W.P. No.9782 of 1999, where, the learned Judge of this Court, by order dated 11.06.1999, has given the following directions:

"3. Considering the facts and circumstances of the case, the grievance of the petitioners and the relief sought for in the above Writ Petition, it is suffice to direct the first respondent to consider the representations of the petitioners dated 15.10.1998, 07.12.1998, 10.12.1998 and 19.04.1998 and pass appropriate order on merits within twelve weeks from the date of receipt of a copy of this order.

4. The petition is ordered accordingly in W.M.P. No. 13908 of 1999 is dismissed."

3. Pursuant to the direction, it seems that, the request of the petitioners have been rejected, according to the respondents. However, according to the petitioners, no copy of the rejection order has been received. Therefore, once again, they had given a representation to the respondents before filing this Writ Petition and accordingly, they filed the present Writ Petition with the aforesaid prayer seeking mandamus.

4. Mr.S.Silambanan, learned Senior counsel appearing for the petitioners would contend that, even though, it was claimed by the respondents that, their representations were considered and disposed of by rejecting the plea of the petitioners, of course, pursuant to the directions issued by this Court, by order dated 11.06.1999, no such order has been served on the petitioners, especially the surviving petitioners, as some of them already expired. Therefore, the petitioners are entitled to seek for issuance of mandamus as prayed for, he contended.

5. However, Mr.Harron, learned Standing counsel appearing for the respondents would submit that, pursuant to the order passed by the Writ Court, dated 11.06.1999, various representations given in the year 1988 by these petitioners

were considered by the respondents and the Chief Engineer, i.e., second respondent had rejected their plea, by his proceedings dated 27.08.1999 and the copy of the same has also been served on the petitioners.

6. In fact, having taken note of such rejection order, the petitioners had chosen to give one more representation, where in reference column of body of the letter, they referred to about the rejection letter by the second respondent dated 27.08.1999. Therefore, without challenging the said order, they cannot once again file a fresh writ petition seeking for a Writ of Mandamus to consider the issue as the same has already been considered pursuant to the orders of this Court and rejected.

7. I have considered the said submissions made by the parties and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned Standing counsel appearing for the respondents that, the earlier plea raised by these petitioners by way of representations dated 15.10.1998, 07.12.1998, 10.12.1998 and 19.04.1998 were considered and by proceedings dated 27.08.1999 of the second respondent, such plea raised by the petitioners were rejected.

9. This has also been taken note of by the petitioners, when they make the further representations and the copy of the same also has been filed in the typed set of papers and the relevant portion of the said representation of the petitioners were taken note of by the second respondent and the representation is extracted hereunder for easy reference:

" To the shock and surprise letters dated 27.08.1999 made in cited (iii) above were received b the petitioner in W.P, wherein the Chief Engineer T.N.E.B. Mettur Thermal Power Station stated that the request of the petitioner in the W.P. No. 9782 of 1999 cannot be accepted.

10. Therefore, it has become clear that, by proceedings dated 27.08.1999, the second respondent rejected the plea of the petitioners by way of representations of various dates in 1988, of course pursuant to orders dated 11.06.1999 in W.P. No. 9782 of 1999.

11. Once the plea of the petitioners having been considered and rejected, on merits by the respondent / employer, it is for the petitioners to agitate the issue in the manner known to law, however, they have once again chosen to file a Writ Petition by asking mere mandamus. Therefore,

this Court feels that, such kind of mandamus cannot be issued in this Writ Petition.

12. In that view of the matter, this Court feels that, this Writ Petition can be dismissed with the liberty to the petitioner to challenge the said rejection order given by the second respondent dated 27.08.1999, if the petitioners are advised to do so.

13. Resultantly, this Writ Petition is dismissed, however, with the liberty to the petitioner to challenge the rejection order already passed by the respondents, i.e., second respondent dated 27.08.1999, if the petitioners are advised to do so. However, there shall be no order as to costs.

14. Insofar as the point of latches is concerned, the issue is left open as, that can be agitated by both parties on merits in subsequent proceedings, if any.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

vji

To

1. The Chairman,
The Tamil Nadu Electricity Board,
801, Anna Salai,
Chennai - 600 002.

2. The Chief Engineer,
Mettur Thermal Power Station,
Metrur Dam - 636 406.

3. The Superintending Engineer,
Mettur Thermal Power Station,
Mettur Dam - 636 406.

+1cc to M/s.T.S.Gopal & Co, Advocate SR.No.10655

+1cc to M/s.Profexs Associates, Advocate SR.No.10779

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