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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. Nos.16209 and 16214 of 2019

P.Manikandan

...Petitioner in W.P.No.16209 of 2019

Tmt.M.Indhirani

...Petitioner in W.P.No.16214 of 2019

Vs

1.The Chairman,

Tamil Nadu Generation & Distribution Corporation
(TANGEDCO), No.144, Anna Salai,
Chennai - 600 002.

2.The Chief Engineer (Personnel),

Tamil Nadu Generation & Distribution Corporation
(TANGEDCO), No.144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer,

Dharmapuri Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation
Dharmapuri - 5.

...Respondents in both W.Ps

PRAYER : Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writs of Certiorarified Mandamus calling for the records relating to rejection order in Memo No.066827/433/G.56/G.562/2018-1 and Memo No.066827/433/G.56/G.562/2018-2, both dated 30.12.2018 on the file of the 2nd respondent quash the same direct the respondents to absorb the petitioner as regular worker in the light of the order passed in Memo No.081451/1310/G42/G422/2017-1, dated 28.09.2017 on the file of the 2nd respondent and to repost the petitioner in the existing vacancy as Full Time regular employee with all attendant benefits instead of Part Time conservancy Workers.

For Petitioner in both W.Ps : Mr.S.Doraisamy
for Mr.V.Ilangovan

For Respondents in both W.Ps : Mr.P.Subramaian
Standing Counsel



C O M M O N O R D E R

The petitioners were appointed as part-time conservancy workers (Scavengers) by the respondent Board on 04.04.2003 and 04.06.2003 respectively. They have been working continuously as part time workers for 14 years. According to them, though they were assigned work only for a period of two hours in a day, the respondents used to extract work from these petitioners for more than 5 hours and they were made to work till the evening every day. According to the petitioners though they were appointed as a part time conservancy worker, they were not brought in their regular time scale of pay since their original date of appointment.

2. The grievance of the petitioners is that in similar circumstances, the second respondent vide memos dated 02.05.2013 and 28.09.2017 passed orders absorbing part time conservancy workers as regular workers in the time scale of Rs.5460-20200 in 1900 Grade Pay. Those persons were working in the Mettur Thermal Power Station - 1, similarly like the petitioners as part time conservancy workers, has been regularised in pursuance of the directions of this Court in W.P.Nos.25423 and 25433 of 2013 dated 09.01.2014.

3. The learned counsel appearing for the petitioners would straight away draw the attention of this Court to the directions in W.P.Nos.25423 and 25433 of 2013 dated 09.01.2014, the relevant portion of which read as follows:

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The case of the petitioners is that they are working as part time workers in the third respondent Corporataion for more the fifteen years continuously and eventhough they are named as par time conservancy worker, they are rendering service as regular workers. It is their further case that they were regularized as part time conservancy workers on 20.11.2011, by the third respondent in the time scale of pay, however, their services were not regularized as the fulltime workers. Therefore, they made a representation seeking for such benefit.

5. it is represented by Mr.S.Doraisamy, Learned appearing for the petitioners that the respondents have extend similar benefits to other workers by proceedings dated 2.5.2013 and the petitioners have already approached the respondents by way of representation dated 30.06.2013, seeking regularization as full time workers.



7. Accordingly, the writ petitions are disposed of with a direction to the first respondent to consider the petitioners representation dated 30.06.2013, and pass orders on merits and in accordance with law, within a period of eight weeks from date of receipt of a copy of this order, Needless to say that while considering the request of the petitioners, the first respondent shall take into account of the similar benefits given to the other employees, as claimed by the petitioners. No costs.

5. On behalf of the respondents, Mr.P.Subramanian, learned Standing Counsel appeared and a counter affidavit has been filed. In the counter affidavit, it has been repeatedly stated that the petitioners were employed only for a period of two hours in a day and they have not been engaged beyond two hours at all as claimed by them. According to the counter affidavit, they are not regular employees and there is no continuous work through out the day for the part time sweeper. Their hours of work were only between 8.00 a.m and 10.00 a.m. per day and only during the said hours they have been employed.

7. When similar direction was issued by this Court vide order dated 26.06.2018, in W.P.No.6007 of 2018, their claim came to be rejected and the consideration given to those similar persons was sadly missing in the case of the petitioners. Despite this Court repeatedly confronted the counsel for the respondents as to why these two persons have been discriminated against in the matter when their claims are



identically circumstanced, this Court could not get any plausible answer nor was any attempt made to justify a differential treatment meted out to the petitioners.

8. When the respondents have thought it fit to grant regularisation to the other similarly placed employees by graciously accepting the directions of this Court and passed orders on 28.09.2017, this Court is unable to countenance the opposition to the present claim by the respondents. The benevolence that has been shown to the 13 persons need to be shown to the present petitioners as well, there should not be any discrimination when the claims are identically placed for the same class of employees. In the instance the rejection of the claim of the petitioners is in blatant violation of Article 14 of the Constitution of India. This Court is therefore of the view that the petitioners have made out a case for grant of relief both on the grounds of parity and equity.

9. In the aforesaid circumstances, the impugned orders in Memo No.066827/433/G.56/G.562/2018-1 and Memo No.066827/433/G.56/G.562/2018-2, both dated 30.12.2018 are set aside and the Writ Petitions are allowed. The respondents are directed to pass orders granting the same benefit given to the similarly placed employees vide Memo No.081451/1310/G42/G422/2017-1, dated 28.09.2017.

10. The respondents shall grant the petitioners all the benefits as extended to the other employees who are covered under the aforementioned order.

11. Appropriate orders shall be passed in this regard within a period of six (6) weeks from the date of receipt of a copy of this order.

12. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
Tamil Nadu Generation & Distribution Corporation
(TANGEDCO), No.144, Anna Salai,
Chennai - 600 002.



2.The Chief Engineer (Personnel),
Tamil Nadu Generation & Distribution Corporation
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3.The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation
Dharmapuri - 5.

+2ccs to Mr.S.Doraisamy, Advocate SR. No.66676 & 66677

W.P. Nos.16209 and 16214 of 2019

SV (CO)
PR (03/01/2022)