



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.1655 of 2014

M.Babu

..Petitioner

vs.

1. The Chairman,
TNEB, Chennai.
2. The Chief Engineer (Personnel),
TANGEDCO, Chennai.
3. The Superintending Engineer,
Vellore Electricity Distribution Circle,
TANGEDCO, Vellore-6.

4. A.Dhayalan
5. M.Rajendran
6. V.Jagadhesan
7. A.Govindasamy
8. A.Settu
9. K.N.Karunakaran
- 10.K.Shanmugam
- 11.R.Gangadharan
- 12.K.P.Bhoopathy
- 13.P.Shanmugam

..Respondents

(R4 to R13 impleaded vide order dated
06.11.2017 in M.P.No.1/2015)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records pursuant to the order of the 3rd respondent dated 05.09.2013 in Ku.No.19498/1113/NeePee2/Vool/2013, quash the same and consequently direct the respondents to refix the petitioner's seniority based upon the list of bonafide candidates identified by the Selection Committee from 23.08.1991 to 31.08.1991.

For Petitioner	: Mr.G.B.Saravanabhavan
For Respondents	: Mr.A.Leeban
	for M/s.T.S.Gopalan & Co.,
	for R1 to R3
	R4 to R13 - No Appearance



O R D E R

The challenge in this writ petition is to the order of the third respondent dated 05.09.2013, in and by which his claim for refixing the seniority came to be rejected and for a consequential direction directing the respondents to refix the petitioner's seniority based upon the list of bonafide candidates identified by the Selection Committee from 23.08.1991 to 31.08.1991.

2. The case of the petitioner is that he was appointed as Helper under the directions of Hon'ble Justice Khalid Commission. He was initially working as Contract Labour and subsequently identified and absorbed as Helper by the recommendations of the Selection Committee during February, 1991. According to the petitioner, he is in Sl.No.76 of the Selection List approved by the third respondent, but his seniority was placed below his juniors and the petitioner was working as Contract Labour from the year 1981 and on the date of approval for regularization in the year of 1991, the petitioner was eligible for regularization but the respondent has regularized the services of the petitioner only on 29.05.2013 and therefore, prays that he should be brought into regularization from September, 1991 onwards. In this regard, the petitioner has also submitted a representation to the respondents seeking to regularize his services with effect from 1991 and since the said representation came to be rejected by the third respondent, vide impugned order dated 05.09.2013, the present writ petition has been filed.

3. The third respondent has filed a detailed counter affidavit denying the averments made in the writ petition and stated that detailed enquiry has been conducted by the Justice Khalid Commission based on the recommendations made by respective Trade Unions and the Commission found that workers, who are working as Contract Labour and have put in long years of services, are to be considered for absorption and hence, the Commission has recommended for absorption of Contract Labourers numbering 18,600 and the said award was submitted before the Hon'ble Supreme Court and based on the final orders passed by the Hon'ble Supreme Court, the petitioner was appointed in the services of the respondent Board on 19.11.1993 and after a lapse of nearly 20 years, the petitioner is making a fresh claim as to refixation of seniority and therefore, prays that the claim of the petitioner is liable to be rejected on the ground of delay and laches. It is further stated in the counter affidavit that, on 05.09.2013, the petitioner's representation was rejected by the third respondent stating that even though the name of the petitioner was contained in the selection list in pursuant to the proceedings of the Justice Khalid Commission, he



was not appointed in the year 1991, as there was discrepancies seen in the petitioner's date of birth and thereafter, by order dated 06.11.1993, the petitioner came to be appointed permanently after sorting out the discrepancies.

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4. The learned counsel for the petitioner would submit that the third respondent has passed the impugned order without considering the list of bonafide candidates approved by the respondent officials based on the Justice Khalid Commission, after identification of contract labourers by the Selection Committee and the petitioner, being all along working ever since February 1981, being enlisted for regularization based upon the report of the Selection Committee and all his juniors being regularized with effect immediately after several days from September, 1991, but the petitioner was not regularized and therefore, prays for setting aside the impugned order.

5. The learned counsel for the respondent would submit that the writ petition is not maintainable on the ground of delay and laches and has relied upon Regulation 97(d) of the Tamil Nadu Electricity Board Service Regulation, which says that the application for the revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority within a period of three years from the date of appoint of such service and the petitioner has not submitted the application within the period of 3 years and during the enquiry before the Justice Khalid Commission, some discrepancy was noted in the petitioner's date of birth and after verification of the records, his absorption was effected on 06.11.1993 and the petitioner, having accepted the absorption as per the final list submitted before the Hon'ble Supreme Court, now cannot turn around after a lapse of 20 years and claim for re-fixation of seniority and therefore, prays for dismissal of this writ petition. The learned counsel for the official respondents, in support of his contentions, has placed reliance upon the decision in B.S.Bajwa and Another v. State of Punjab and Others [(1998) 2 SCC 523].

6. This Court has considered the submissions made and also perused the entire materials placed on record.

7. The primordial contention of the official respondents is that the writ petition itself is not maintainable on the ground of delay and laches since the petitioner has sought re-fixation of seniority after a period of 20 years. According to the respondents, based on the final seniority list submitted before the Hon'ble Supreme Court by the Hon'ble Justice Khalid Commission, the respondents Board has absorbed the Contract Labourers from the year 1991 and therefore, ample opportunity was granted to the petitioner to rectify the discrepancy in the



seniority list and the writ petitioner also appeared before the Commission and was directed to approach the Superintending Engineer /third respondent along with relevant documents/materials and thereafter only, the Commission has refixed the petitioner's seniority as Contract Labour for absorption on employment. As per Regulation 97(d) of the Tamil Nadu Electricity Board Service Regulations, the application for revision of seniority of a person shall be submitted to the appointing authority within a period of three years and in the case on hand, the petitioner has already retired from service and at the fag end of his service, the present writ petition has been filed. The relief sought for by the petitioner to refix his seniority after a lapse of twenty years, cannot be directed to the considered in view of the well settled legal position and therefore, this Court finds no merit in this writ petition.

8. Accordingly, this writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Chairman,
TNEB, Chennai.
2. The Chief Engineer (Personnel),
TANGEDCO, Chennai.
3. The Superintending Engineer,
Vellore Electricity Distribution Circle,
TANGEDCO, Vellore-6.

+1cc to Mr.G.B.Saravanabhavan, Advocate, S.R.No.68200
+1cc to M/s.T.S.Gopalan & Co.,, Advocate, S.R.No.68134

W.P.No.1655 of 2014

KJ[co]
NSK 03/01/2022