



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.17140 of 2013

and

M.P (MD)No.2 of 2013

1.Muruganandam

2.Periasamy

.. Petitioners

Vs.

1.The Chief Engineer, (Personnel)

TANGEDCO

(Formerly called as Tamilnadu Electricity Board)

144 Annasalai,

Chennai-600 002.

2.The Superintending Engineer,

TANGEDCO

(Formerly called as Tamilnadu Electricity Board)

Pudukkottai.

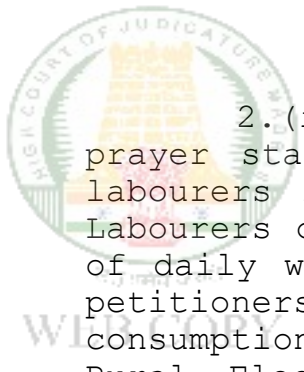
.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings in letter No.113673/868 G 44/G 441/2012 dated 18.01.2013 and quash the same as arbitrary and illegal and consequently, direct the respondents to regularize the petitioner as permanent employees on the basis of their qualification.

For Petitioners	:	Mr.M.Anbarasan
For R2	:	Mr.T.S.Gopalan & Co.,
For R1	:	(No appearance)

ORDER

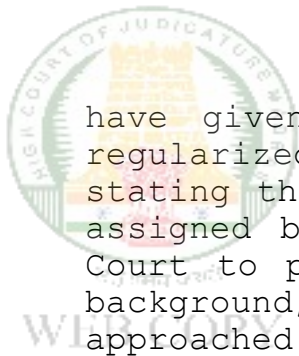
This Writ Petition is filed for the issuance of a writ of Certiorarified Mandamus to quash the proceedings of the first respondent dated 18.01.2013 in letter No.113673/868 G 44/G 441/2012 and consequently, direct the respondents to regularize the petitioners, as permanent employees, on the basis of their qualifications.



2.(i)The petitioners have come to this Court with the above prayer stating that the petitioners were recruited as a contract labourers in the year 1989. They were allowed to serve as Casual Labourers on contract basis. Though the wages are paid on the basis of daily wage, they were continued to work as Unit Assessor. The petitioners were entrusted the work of collecting the electricity consumption charges and other works in the office of then Thirumayam Rural Electric Co-operative Society. The work allotted to the petitioners are similar to that of full time employees of Thirumayam Rural Electric Co-operative Society.

(ii).Pursuant to G.O.Ms.No.124 Energy (A1) Department, dated 27.06.1997, the Rural Electric Co-operative Societies at Kumbakonam, Vandavaasi and Thirumayam were wound up and the distribution of electricity in the area were entrusted to the Tamil Nadu Electricity Board. The administrative functions of all the three Societies were taken over by the Tamil Nadu Electricity Board with effect from 06.04.2002. By proceedings dated 20.07.2006, Tamil Nadu Thirumayam Rural Electric Co-operative Society, directed all the employees of Thirumayam Electric Co-operative Society to be absorbed as employees of Tamil Nadu Electricity Board. However, the petitioners have made several representations to absorb them as employees of Tamil Nadu Electricity Board. The first Respondent in his letter dated 18.01.2013 informed the petitioners that they cannot be absorbed as employees of Tamil Nadu Electricity Board, since there is no direct relationship between the petitioners and TANGEDCO. Since they were not regular employees of the erstwhile Society, it is submitted that there is no scope for considering the petitioners' request.

3.The respondents have filed a detailed counter affidavit. It is seen that the petitioners admitted that they were recruited as contract labourers in the year 1999 by Thirumayam Rural Electric Co-operative Society. It is stated in the counter affidavit that an agreement was entered into between the Special Officer, Thirumayam Rural Electric Co-operative Society and the President of Annai Indira Elainjar Narpani Mandram for collection of current consumption charges from the consumers. It is further stated that as per the said agreement, on the date of vesting of the said society in to the M/s.TANGEDCO, the agreement will automatically come to an end, since there was no employer and employee relationship between the petitioner and the society and hence, no relationship between the petitioner and M/s.TANGEDCO can be presumed. It is admitted that the petitioners were engaged by the Society purely on contract basis through other agencies. When there is no direct relationship between the petitioner and the Society, no legal obligation can be implied for M/s.TANGEDCO regarding the employment of the petitioners, based on the contract, their employees had with the erstwhile society. The respondents also stated in their counter affidavit that they had no records maintained by the Thirumayam Rural Electricity Co-operative society to show that the petitioners were engaged as contract labourers in the year 1999. The respondents



have given several details as to how the petitioners cannot be regularized as permanent employees in the Electricity Board. Except stating that the petitioners were engaged in relation to the works assigned by the erstwhile society no materials placed before this Court to prove the contentions of the petitioners. In the factual background, this Court is of the view that the petitioners have approached this Court to seek regularization of their service in the respondent Board without there being engagement by Board.

4. In view of the facts and circumstances of the case, it is stated by the respondents that the petitioners may pursue their claim for permanent status, as per Section 3 of the Tamil Nadu Industrial Establishments (Conferment and Permanent Status to Workman) Act, 1981, if they are entitled to. One of the ground raised is that the petitioners are treated differently and different yardsticks were adopted by the respondents with reference to different Societies. The petitioners have alleged that the respondents have violated Article 16 of the Constitution of India and that the impugned order is discriminatory and violative of Article 14 of the Constitution of India. It is brought to the notice of this Court that this Court has earlier in similar cases relegated the parties to approach the appropriate forum whenever such employees came before this Court by filing writ petition without exhausting the alternative remedy. As a result, this Writ Petition is dismissed. However, liberty is given to the petitioner to get their status declared under the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workman) Act, 1981 if they establish. No costs. Consequently, connected miscellaneous petition is closed.

5. The learned counsel appearing for the respondents submitted that the writ petition itself is liable to be dismissed on the ground of delay and laches. The impugned order was passed on 18.01.2013 and the petitioners' application dated 29.12.2012 was the subject matter of the impugned order. It is stated that the Electricity Board took over the Society and that the petitioners' representations after 7 years cannot be entertained. Since the writ petition is dismissed on the ground of availability of alternative remedy, it is open to the respondents to raise all their submissions and grounds, in case, the petitioners approach the appropriate forum as directed by this Court in this order.

Sd/-

Assistant Registrar (CS-I)

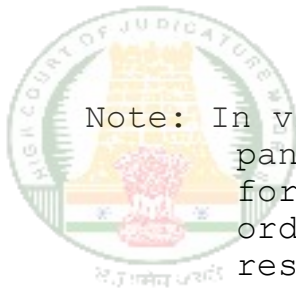
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Sub Assistant Registrar (CS)

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DJ(CO)
KB(31.08.2021) 4P 3C