



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.02.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD) Nos.21288 to 21290 of 2016

and

W.M.P. (MD) .No.15227 of 2016

WEB COPY

P.Muthu ... Petitioner in W.P.(MD).No.21288 of 2016
V.Rajamanickam (Helper) ... Petitioner in W.P.(MD).No.21289 of 2016
S.Vellaichamy ... Petitioner in W.P.(MD).No.21290 of 2016

Vs.

- 1.The Tamilnadu Electricity Generation and Distribution Corporation Limited,
represented by its Chairman,
No.144, Anna Salai,
Chennai 600 002.
- 2.The Superintendent Engineer,
The Tamilnadu Electricity Generation and Distribution Corporation Limited,
Pudukottai & District.

... Respondents in all W.Ps.

Prayer in W.P.(MD).No.21288 of 2016 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner on contract basis from the year 1980 to 2005 along with regular service rendered by the petitioner from the year 2005 to 2015 with all consequential benefits from the date of retirement, by considering the petitioners' representation dated 19.09.2016.

Prayer in W.P.(MD).No.21289 of 2016 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 2nd respondent in proceedings in Letter



No.01481/50/Ni.Aa.Pa.Pi/Udhavi 3/Ko./Kattu/2016 dated 22.02.2016, quash the same as illegal and consequently direct the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner from the year 1980 to 2005 on contract basis along with regular service rendered by the petitioner from the year 2005 to 2014 with all consequential benefits from the date of retirement, by considering the petitioner's representation, dated 19.09.2016.

Prayer in W.P.(MD).No.21290 of 2016 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to fix and disburse the pension to the petitioner by counting half of the service rendered by the petitioner on contract basis from the year 1980 to 2005 along with regular service rendered by the petitioner from the year 2005 to 2016 with all consequential benefits from the date of retirement, by considering the petitioners' representation dated 19.09.2016.

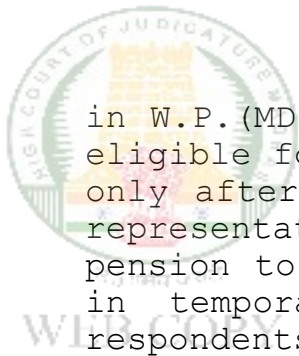
For Petitioners	: Mr.K.Baalasundharam
For Respondents	: Mr.T.Sakthi Kumaran
	Standing counsel

C O M M O N O R D E R

Since the issue involved in these writ petitions is one and the same, these writ petitions are taken up together and disposed of by this common order.

2. These writ petitions have been filed for a direction to the respondents to fix and disburse the pension to the petitioners, by counting half of the service rendered by the petitioners on contract basis along with regular service rendered by the petitioner with all consequential benefits from the date of their retirement, by considering the petitioners' representation, dated 19.09.2016.

3. The case of the petitioners is that they were worked as Contract Labourers in the respondent Electricity Board from the year 1980 to 2005 without any break. In Tamil Nadu Electricity Board, the workmen employed in the nomenclature of contract labours are regularised periodically, as per the recommendation of Mr.Justice Khalid Committee, dated 11.02.1991. After Khalid Committee recommendation, the petitioners' name were identified for absorption in the year 1998. But, their service was regularised only in the year 2005 as Mazdoor Grade - II. Thereafter, the petitioners reached the age of superannuation and retired from service and they approached the second respondent for pension. But the second respondent orally informed to the petitioners in W.P.(MD).Nos.21288 and 21290 of 2016 that they are not eligible for pension, since their service was regularised after 01.04.2013, as per G.O.(Ms.) No.259, dated 06.08.2003 and rejected the request of the petitioner



in W.P.(MD).No.21289 of 2016, on 22.02.2016, stating that he is not eligible for pension, on the ground that his service was regularised only after 01.04.2003. Hence, the petitioners have made a detailed representation, dated 19.09.2016, to the respondents to grant pension to the petitioners, by counting 50% of the service rendered in temporary period along with regular service. However, the respondents have not taken any steps to grant pension to the petitioners. Therefore, the petitioners have filed the present writ petitions with the aforesaid prayer.

4. The learned counsel appearing for the petitioners would submit that as per Rule 11(4) of the Tamil Nadu Pension Rules, the petitioners are entitled to count their past service rendered prior to regularisation. Hence, this Court may issue a direction to the respondents to pay the revised pensionary benefit, by calculating 50% of the service rendered prior to regularisation.

5. The learned Standing counsel appearing for the respondents would submit that the issue involved in the present writ petitions is no more *res integra* and the Full Bench of this Court has already held that the persons, who are appointed on or after 01.04.2003 are not entitled to pension. In support of his contentions, the learned Standing counsel has relied on a decision of the Full Bench of this Court in W.A.No.158 of 2016 etc., batch, dated 03.12.2019, wherein, in Paragraph No.45, it is stated as follows:

"45. In the light of the above, we answer the reference as follows:-

- i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.*
- ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.*
- iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.*
- iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for*



the purpose of determination of qualifying service for pension.

v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

6. Heard the learned counsel for the petitioners, learned Standing counsel appearing for the respondents and perused the materials available on record.

7. The facts in the present cases are not in dispute. Admittedly, the petitioners were worked as Contract Labourers in the respondent Electricity Board from the year 1980 to 2005 without any break. However, the petitioners' appointment was regularised only in the year 2005 as Mazdoor Grade - II and they retired from service. The core issue arises for consideration is these writ petitions is that whether the petitioners are entitled to calculate 50% of the service rendered prior to regularisation or not. On perusal of the above decision makes it clear that the employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension, as per the Tamil Nadu Pension Rules, 1978.

8. In view of the above decision, the respondents are directed to pass appropriate orders, on the petitioners' representation dated 19.09.2016, in terms of Full Bench decision of this Court, within a period of twelve weeks from the date of receipt of a copy of this order.

9. In view of the above, the impugned order passed by the second respondent dated 22.02.2016 is quashed and all the writ petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)



1.The Tamilnadu Electricity Generation and Distribution Corporation Limited,
represented by its Chairman, No.144, Anna Salai,
Chennai 600 002.

2.The Superintendent Engineer,
The Tamilnadu Electricity Generation and Distribution Corporation Limited,
Pudukottai & District.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-7614[F]

+1 CC to M/s.K.BAALASUNDHARAM, Advocate (SR- 7793,7794,7795[F]
dated 01/03/2021)

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GS (07.05.2021) 5P 5C