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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. NO. 5613 OF 2018

AND

W.M.P. NOS. 6939 AND 18199 OF 2018

1. A.Gandhi
2. K.Manjula
3. L.Chinnathambi
4. A.Devaraj
5. P.Vijayakumar
6. M.Kanniyappan
7. G.Velu
8. T.Ramajeyam
9. R.Ranjithkumar
10. C.Krishnan
11. R.Elumalai
12. B.Gnanasundaram
13. G.Rajendiran

... Petitioners

-VS-

1. The Government of Tamilnadu,
Represented by its Secretary,
Energy Department,
Fort St.George, Chennai-600 009.
2. The Government of Tamilnadu,
Represented by its Secretary,
Labour and Employment Department,
Fort St.George, Chennai-600 009.



3. Tamilnadu Generation and Distribution Corporation Ltd.,
Represented by its Chief Engineer (Establishment),
No.144, Anna Salai, Chennai-600 002.
4. The Superintending Engineer,
Thiruvannamalai Electricity Distribution Circle,
Vengikkal, Tiruvannamalai-606 604.
5. The Inspector of Labour,
Office of the Inspector of Labour,
Thiruvannamalai.

... Respondents

Prayer:-

Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents herein to absorb the Petitioners herein in their respective service in view of the Award passed by the Fifth Respondent herein in Na. Ka. E/3479/2001, dated 19.12.2002, which was confirmed by the Judgment of this Honourable Court dated 24.04.2012 in W.P. No. 26829 of 2003 and recommendation was made by the Fourth Respondent in his Letter No. 122115/Me.Po./Ni.A./Ni.Pi-3/Ni.Me./Ni.U.2/2015-2, dated 03.10.2015 by considering the representations of the Petitioners dated 30.03.2017.

For Petitioners:Mr. Na.Malaisaravanan

For Respondents:Mrs. C.Sangamithirai
Special Government Pleader (For R1, R2 & R5)

Mr. Anand Gopalan
for M/s. T.S.Gopalan & Co. (For R3 & R4)

O R D E R

Heard Mr. Na.Malaisaravanan, Learned Counsel for the Petitioners and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the First, Second and Fifth Respondents, Mr. Anand Gopalan, Learned Counsel for the Third and Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners, who have obtained an order dated 19.12.2002 in Na. Ka. No. E/347/2001 from the Inspector of Labour - II Circle, Chennai granting the benefit for permanent



status to them in the Thiruvananthapuram Electricity Distribution Circle of Tamil Nadu Electricity Board (hereinafter referred to as 'TNEB' for short and now renamed as 'TANGEDCO') under the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as the 'Act' for short), seek directions to the Respondents to implement the same in this Writ Petition.

3. At this juncture, it must be recalled that the Division Bench of this Court in *Superintending Engineer, Nagapattinam -vs- Inspector of Labour* [(2009) 4 MLJ 472] has earlier considered the claims made by similarly placed persons for absorption in TNEB and has ruled that the same would have to be determined only on the basis of the Settlement dated 10.08.2007 entered by TNEB with the Labour Unions under Section 12(3) of the Industrial Disputes Act, 1947, which has been given effect in the Board Proceedings in (Per) B.P. (FB) No. 44 dated 06.09.2007 and Per.B.P. (CHAIRMAN) No. 9 dated 09.01.2008 issued by the Administrative Branch of Tamil Nadu Generation and Distribution Corporation Limited (hereinafter referred to as 'TANGEDCO' for short). In a number of subsequent cases that have followed, this Court had reiterated that legal position.

4. In that view of the matter, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioners, requires the concerned authority of TANGEDCO to examine the claim of the Petitioners for absorption in service in terms of the Settlement dated 10.08.2007 entered by TNEB with the Labour Unions under Section 12(3) of the Industrial Disputes Act, 1947, which has been given effect in the Board Proceedings in (Per) B.P. (FB) No. 44 dated 06.09.2007 and Per.B.P. (CHAIRMAN) No. 9 dated 09.01.2008 issued by the Administrative Branch of TANGEDCO, in the following manner:-

- (i) the Petitioners shall submit their application to the Superintending Engineer, Thiruvannamalai Electricity Distribution Circle, TANGEDCO, Tiruvannamalai along with a copy of the same to the Chief Engineer (Personnel), Tamil Nadu Generation and Distribution Corporation Limited, Eighth Floor, Eastern Wing, NPKRR Maligai, 144, Anna Salai, Chennai - 600 002 supported by relevant documents to substantiate their claim for absorption in service, on or before 31.07.2022;
- (ii) if the concerned authority after the scrutiny of the applications is not satisfied with the prescribed requirements or eligibility criteria for extending that benefit to the Petitioners, the deficiencies in that regard shall be informed in writing to them requiring the same to



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- be furnished within a time frame of not less than 15 clear working days that may be granted for that purpose;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioners to explain their position in that regard and a reasoned orders shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment; and
- (v) the report of compliance shall be filed by 30.09.2022 before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government of Tamil Nadu,
Energy Department,
Fort St.George, Chennai-600 009.
2. The Secretary to Government of Tamil Nadu,
Labour and Employment Department,
Fort St.George, Chennai-600 009.
3. The Chief Engineer (Establishment),
Tamilnadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai-600 002.
4. The Superintending Engineer,
Thiruvannamalai Electricity Distribution Circle,
Vengikkal, Tiruvannamalai-606 604.
5. The Inspector of Labour,
Office of the Inspector of Labour,
Thiruvannamalai.



Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+lcc to Mr.Na.Malaisaravanan, Advocate, S.R.No.21585
+lcc to M/s.T.S.Gopalan & Co, Advocate, S.R.No.21602
+lcc to the Government Pleader, S.R.No.21797

W.P. No. 5613 of 2018

RGN (CO)
PM/26/05/2022