



W.P.(MD)No.8917 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 8917 of 2013

1. The Assistant Engineer (Civil),
Tamil Nadu Electricity Generation and
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Ettaiyapuram Road, Tuticorin – 628 002.

2. The Superintending Engineere,
Tamil Nadu Electricity Generation and
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Ettaiyapuram Road, Tuticorin – 628 002.

.... Petitioners

Vs.

1. The Presiding Officer,
The Labour Court,
Tirunelveli.

2. P.Velmurugan

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorari***, or any other appropriate Writ or order or direction in the nature of Writ, to call for records in pursuant to the impugned order passed by the 1st respondent in I.D.No.11 of 2012 dated 19.11.2012 and quash the same.



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For Petitioner : Mr.Anandgopalan, for
M/s.T.S.Gopalan & Co.
For R1 : Labour Court
For R-2 : Mr.D.Saravanan

ORDER

This Writ Petition has been filed to quash the impugned order passed by the 1st respondent in I.D.No.11 of 2012 dated 19.11.2012

2. The 2nd respondent was appointed as Part Time Scavenger from 1998 onwards. The 2nd respondent had filed a petition under Section 2(A)(2) of the Tamil Nadu Industrial Disputes Act, with prayer to direct the petitioner management to absorb him as Workman in permanent place in Tamil Nadu Electricity Board with back wages, which was numbered as I.D.No.11 of 2012. The 2nd respondent again filed C.P.No.105 of 2003 under Section 33(C)(2) of the Act, with prayer to direct the petitioners herein to absorb the 2nd respondent as workman.



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3. The contention of the writ petitioner management is that there were several employees who were engaged as Sweepers and Scavengers and other category of members. The issue was taken up by the Union and the Union was agitating before various Forums and Courts. The petitioner management has suffered some orders in the litigation. Against one such order the petitioner management had preferred SLP No. 10611 of 2008. The Hon'ble Supreme Court had passed an order on 26.10.2010 and the relevant portion is extracted hereunder:

“Leave granted.

On the facts of the case, we are not inclined to interfere with the impugned judgment in exercise of our jurisdiction under Article 136 of the Constitution of India.

However, the respondents writ petitioners will not be entitled to the scale of pay of Rs.600-1100 with dearness allowances with effect from 14.10.1998 but are entitled to the same with effect from the date of filing of the writ petition.

The impugned order to this limited extent shall stand modified.



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The appeal is disposed of with no order as to costs”.

5. The 2nd respondent being is similarly placed person is also covered by the said order. However, the Labour Court had passed an award, dated 19.11.2012, directing the petitioner management to absorb the 2nd respondent from the date of original appointment, i.e., from 1995 onwards. Since the issue was settled by the Hon'ble Supreme Court as stated *Supra*, the impugned order ought to be modified in the light of the order passed by the Hon'ble Supreme Court.

6. The learned counsel appearing for the petitioner submitted that based on the order of the Hon'ble Supreme Court, the petitioner management has passed Board proceedings in (Per.)(FB) TANGEDCO Proceedings No.11, dated 02.08.2011, wherein, all the part time workers were absorbed as per conditions laid down in the said Board Proceedings. As per BP proceedings the second respondent is entitled to the benefits.



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7. Therefore, this Court is of the considered opinion that the second respondent is entitled to the benefits as per the Board Proceeding No.11, dated 02.08.2011, since the Board Proceeding has passed in the light of the Hon'ble Supreme Court and the second respondent is not entitled any benefits as stated in the Industrial Dispute. Therefore, the order, dated 19.11.2012 in I.D. No.11 of 2012, passed by the Labour Court, is hereby set aside.

8. The learned counsel appearing for the petitioner submitted that the 2nd respondent has not accepted the conditions laid in the Board Proceeding No.11 and has left job. The learned counsel appearing for the 2nd respondent submitted that the 2nd respondent died. Therefore, the legal heirs of the 2nd respondent are entitled to the benefits, if anything benefits is accrued as per Board Proceeding No.11 and if any benefits is available the same shall be disbursed within a period of eight weeks.



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9. With the above directions, this Writ Petitions is disposed of.

No Costs.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.8917 of 2013**

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