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W.P.(MD)No.5362 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5362 of 2018

and

W.M.P.(MD)No.5307 of 2018

Vijayaprabhu

... Petitioner

VS.

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
NPKRR Maligai,
Chennai - 600 002.

2.The Chief Engineer Personnel,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.



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3.The Secretary,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

4.The Chief Internal Audit Officer,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

5.The Secretary to Government,
State of Tamil Nadu,
Highways Department,
Fort St. George, Secretariat,
Chennai-600 009.

... Respondents

***(R5 is suo moto impleaded by this Court,
vide this order, dated 13.12.2022)***

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 3rd respondent in Letter No. 12875/A18/A183/15-1, dated 07.03.2015 and to quash the same and consequently, to direct the respondents to count the half of the services rendered



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by the petitioner in the Highways and Rural Works Department (i.e., from 10.04.1978 to 13.07.1982) for calculation of pension and other pensionary benefits and to pay the arrears of pension within the stipulated time that may be fixed by this Court.

For Petitioner : Mr.M.Saravanakumar
For R1 to R4 : M/s.M.Rajeswari
for M/s.Parameswari
For R5 : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed for issuance of writ of Certiorarified Mandamus, to quash the impugned order passed by the 3rd respondent, dated 07.03.2015 and consequently, to direct the respondents to count the half of the services rendered by the petitioner in the Highways and Rural Works Department (i.e., from 10.04.1978 to 13.07.1982) for calculation of pension and other pensionary benefits and to pay the arrears of pension within the stipulated time that may be fixed by this Court.



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2. The Secretary to Government of Tamil Nadu, Highways Department, is suo moto impleaded as 5th respondent by this Court.

3. The case of the petitioner is that he has served 4 years as Road Inspector in the Highways and Rural Works Department. However, for want of vacancy the petitioner was not absorbed. In the meanwhile, the TANGEDCO initiated a recruitment process to appoint persons in the post of Assistant. The petitioner's name was sponsored by the employment exchange. Thereafter, the TANGEDCO selected and appointed the petitioner as Assessor on 16.11.1995. The contention of the petitioner is that under Tamil Nadu Pension Rules, since he has served under the Non-Provincialized service, he is entitled to count the service rendered as Road Inspector in the Highways Department under Rule 11(4).

4. But the respondents submitted that the petitioner is entitled to under Rule 11(4), if the 4 years was properly regularized by the Highways Department. On perusing the papers, it is seen that no such order was passed. The petitioner was



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not able to continue in the Road Inspector post because the Highways Department had not regularized the petitioner for want of vacancy. Since it is not a case of resignation or dismissal and it is only a case of non-availability of post, the petitioner is entitled to be considered. The respondents shall not dismiss the case of the petitioner on the above said ground. The government shall consider the case of the petitioner in the light of the pension rules. If he is entitled to 4 years service, the appropriate person shall confer ratification or regularize is the Government. Therefore, the petitioner is directed to submit a representation to the Government. The Government shall take the said 4 years service rendered in the Highways Department and consider for ratification. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.



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5. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes

13.12.2022

Tmg

To

Secretary to Government,
State of Tamil Nadu,
Highways Department,
Fort St.George, Secretariat,
Chennai-600 009.



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S.SRIMATHY, J

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