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W.A.No.776 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN**  
**AND**  
**THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.No.776 of 2023

G.Annamalai

.. Appellant

v

Superintending Engineer (I/c)  
Vellore Electricity Distribution Circle  
Tamil Nadu General and Distribution  
Corporation Limited  
Gandhi Nagar, Vellore 632 006

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 24.01.2023 passed by the Single Bench in W.P.No.1555 of 2023.

For appellant

Mr.S.T.Varadharajalu

For respondent

Mr.Anand Gopalan for  
M/s.T.S.Gopalan

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W.A.No.1555 of 2023

## **J U D G M E N T**

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This writ appeal has been preferred by the workman against the order dated 24.01.2023 passed by a Single Bench of this Court in W.P.No.1555 of 2023 in dismissing the writ petition filed by him.

2 For the sake of clarity, the parties will be referred to by their rank in the instant writ appeal.

3 The facts in brief leading to the institution of this writ appeal are as under:

3.1 The case of the appellant is that he was employed as a casual labour with effect from 24.12.1986 under the respondent Electricity Board and on completion of 480 days of continuous service in 24 calendar months, his services were regularised as Helper.

3.2 Since the same was not recognized by the respondent, the appellant filed a petition under Section 3 of the Tamil Nadu Industrial Establishment (Permanent Status to Workmen) Act, 1981, before the authority *viz.*, the Inspector of Labour, Vellore, seeking permanency and the said authority, *vide* order dated 21.01.2002, directed the respondent to regularize the services of the appellant in the post of Helper from the date of completion of 480 days i.e., from 01.03.1988.



W.A.No.1105 of 2018

3.3 As the order of the authority was not implemented, the appellant approached the Labour Court by way of filing a Computation Petition under Section 33(c)(2) of the Industrial Disputes Act, 1947, in C.P.No.80 of 2016, claiming monetary benefits due to him as per the order dated 21.01.2002 passed by the authority.

3.4 The Labour Court, *vide* order dated 29.04.2017, allowed the said C.P. by directing the respondent to pay a sum of Rs.3,38,784/- to the appellant towards the amount due to him, challenging which, the respondent preferred W.P.No.10150 of 2018.

3.5 A Single Bench of this Court, *vide* order dated 04.01.2021, holding *inter alia*, that the matter is no longer *res integra* in view of the judgment of a Division Bench of this Court in **The Superintending Engineer, Nagapattinam Electricity Distribution Circle, TNEB, Nagapattinam & another v The Inspector of Labour, Pedari Koil Street, Thiruvarur**<sup>1</sup>, disposed of the said writ petition by setting aside the order dated 29.04.2017 passed by the Labour Court in C.P.No.80 of 2016, in the following terms:

*"(i) The impugned order dated 29.04.2017 passed in C.P.No.80 of 2016 by the first respondent is set aside.*

*(ii) The second respondent is permitted to submit a fresh representation to the petitioner herein along with necessary*

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<sup>1</sup> W.A. No.1302 of 2003, etc. batch decided on 24.10.2008



W.A.No.1302 of 2003

*documents in support thereof within a period of three weeks from the date of receipt of a copy of this order.*

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*(iii) Upon receipt of such documents, the petitioner is directed to consider the representation, on merits and in accordance with law, after providing adequate opportunity to the second respondent and decide the same by a speaking order, to be issued within a period of three months from the date of receipt of respective representation, in consonance with the Settlement order dated 24.10.2008, passed by the Division Bench of this Court in W.A.No.1302 of 2003 and relevant Court proceedings."*

3.6 At this juncture, the relevant portion of the judgment passed by the Division Bench of this Court in W.A. No.1302 of 2003, *etc.* batch, following which, the Single Bench disposed of W.P. No.10150 of 2018 is worth extracting:

*"24. Under the circumstances, we are convinced that the settlement entered into by the board with workmen and union is valid and enforceable. We, however qualify the same that it shall be subordinated only to the extent that the claims of ITI trained workmen that the regulation demands for the post of helpers are not discarded.*

*25. We therefore, direct that persons who ought to have been taken in employment against vacancies that were directed to be filled up by the Supreme Court pursuant to Khalid Commission's Report shall first be filled up before other vacancies are undertaken to be filled up. The writ petitions challenging the 18(1) settlement will stand dismissed, except to the extent mentioned in paras 23 and 24 above. Age relaxation,*



W.A.No.11033 of 2006

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*wherever necessary to accommodate them shall be given. Similarly, the writ petitions challenging the board proceedings 36 and 37 of the Administrative Branch dated 29. 10.2005 will also stand dismissed. The claims of persons before the Labour Inspectors which have been allowed and who have come before this Court seeking for issue of mandamus for enforcement will now be considered under the 18(1) settlement. The writ petitions filed by the Electricity Board challenging the orders of the Labour Inspectors will now be dismissed as infructuous having regard to the 18(1) settlement. The appeals filed by the board against the decision of the learned single will also stand dismissed. The claims of the workmen in W.P.No.1033 of 2006 and the connected batch will not stand affected by the decision of this Court and the Labour Cur will decide in their claims in I.D.No.106 of 2003 in the light of what we have observed, in so far as they are relevant and independently of the same on factual issues whether they have been directly employed by the Electricity Board or not. The writ petitions and writ appeals are disposed of accordingly. No costs."*

3.7 Pursuant to the order dated 04.01.2021 passed in W.P. No.10150 of 2018, the appellant addressed a representation dated 20.01.2021, which was rejected by the respondent *vide* letter dated 27.04.2022.

3.8 The said letter of rejection dated 27.04.2022 was assailed by the appellant in W.P.No.1555 of 2023 and the Single Bench, *vide* order dated 24.01.2023, dismissed the said writ petition holding that the appellant had attained the age of superannuation and that he should have worked out his remedy on the heels of his disengagement in 2008 and having failed to do so, he is estopped from seeking regularisation of his services.



W.A.No.1105 of 2018

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3.9 Aggrieved by the aforesaid order of the Single Bench, the present writ appeal has been preferred by the workman.

4 Heard both sides and perused the records.

5 From a bare perusal of the records, it is seen that the appellant's representation 20.01.2021 which was made pursuant to the order of this Court in W.P.No.10150 of 2018, was rejected by the respondent with the following observations:

*"a. You had not received ex-gratia in any year.*

*b. You had not been identified by the committee constituted on 08.08.1998.*

*c. As per the details available with Board you had worked for two days in the Board. i.e. 01.03.2000 and 03.05.2000. Other than this there is no record to show that you had worked continuously with Board.*

*d. In any event there is no records to show that you worked after 2007 and you have been certainly disengaged in 2007 even as per your own records."*

That apart, the Management has rightly stated that the appellant does not satisfy the criteria laid down in B.P.No.9 dated 09.01.2008.



W.A.No. 110 of 2023

6  
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Since the appellant has attained the age of superannuation and he does not also satisfy the criteria laid down under B.P.No.9 dated 09.01.2008, we are of the view that there is no perversity in the order passed by the Single Bench warranting interference.

In the result, this writ appeal is dismissed, however, sans costs.

[S.V.N., J.] [K.R.S., J]  
09.06.2023

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Internet: Yes / No  
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W.A.No.776 of 2023

**S. VAIDYANATHAN,J.,**  
**and**  
**K.RAJASEKAR,J**

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To

The Superintending Engineer (I/c),  
Vellore Electricity Distribution Circle,  
Tamil Nadu General and Distribution  
Corporation Limited,  
Gandhi Nagar, Vellore 632 006.

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