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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.13098 of 2021

A.Veluchamy

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Petitioner

Vs.

1) The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Company Ltd (TANGEDCO)/ TNEB Ltd,
8th Floor, No: 144,
Anna Salai, Chennai - 600 002.

2) The Chairman,
TNEB Ltd, 8th Floor,
No: 144, Anna Salai,
Chennai - 600 002, Tamil Nadu (State).

3) The Principal Secretary to the
Government (Energy),
Government of Tamil Nadu,
Energy Department,
St George Fort, Chennai - 600 009,
Tamil Nadu (State).

4) The Superintending Engineer,
Purchase and Administration,
Tuticorin Thermal Power Station,
Tuticorin - 628004,
Thoothukudi (District) Tamil Nadu.

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Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India , to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for records pertaining to the order issued by the 4th Respondent vide Order No.Lr.No. 19250/158/Adm.III/A1/F. Court Case/TTPS/2020, dated 24.09.2020 and quash the same and to direct the Respondents to sanction minimum pension in favour of the Petitioner for having rendered 12 years of qualifying pensionable service under the Respondents from the date of attainment of notional age of superannuation of 58 years with arrears of pension and all other consequential benefits

For Petitioner : Ms.Y.Kavitha

For Respondents : Mr. K.Rajkumar,

Standing Counsel for RR1, 2 & 4

ORDER

This Writ Petition has been filed under WRIT OF CERTIORARIFIED MANDAMUS to call for records pertaining to the order issued by the 4th Respondent vide Order No.Lr.No. 19250/158/Adm.III/A1/F. Court Case/TTPS/2020, dated 24.09.2020 and quash the same and to direct the Respondents to sanction minimum pension in favour of the Petitioner for having rendered 12 years of qualifying pensionable service under the Respondents from the date of attainment of notional age of superannuation of 58 years with arrears of pension and all other consequential benefits.



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2. Heard, Ms.Y.Kavitha, learned counsel for the petitioner and Mr.

K.Rajkumar, learned Standing Counsel for the respondents 1, 2 & 4 and perused the materials available on record.

3. The Petitioner was appointed as an Assistant Engineer (Mechanical) at Tamil Nadu Electricity Board (TNEB) under direct recruitment on a regular basis vide TNEB order dated 12.01.1989 and was posted at Mettur Thermal Power Station (MTPS), Metturdam. On 20.05.2000, he was transferred to Tuticorin Thermal Power Station (TTPS), Tuticorin against an existed vacancy. His service under TNEB is a pensionable service, which is governed by Tamil Nadu Electricity Board Liberalised Pension Regulations 1960. The Petitioner applied through proper channel for the post of Assistant General Manager (Engineer) at Industrial Development Bank of India (IDBI), Mumbai, which is a Government of India Organization. Higher officials at TNEB permitted the petitioner to attend the interview on 18.09.2000 for the post of Assistant General Manager (Engineer) Grade 'C' at IDBI, Mumbai and subsequently the petitioner got the appointment order for the same on 08.01.2001. It is submitted that the petitioner sought a technical resignation from TNEB vide representation dated 24.01.2001, by stating that he was willing to join at IDBI as per the appointment order



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received from IDBI dated 08.01.2001 and requested the competent authority of TNEB to accept his resignation and sought a proper reliving order from TNEB. The petitioner's resignation was accepted by TNEB vide order dated 31.01.2001, and he was permitted to resign from TNEB prospectively with effect from 31.01.2001 A.N. It is further submitted that the Petitioner had rendered more than 12 years of qualifying service at TNEB and he is entitled for a minimum pension as per Tamil Nadu Electricity Board Liberalized Pension Regulations 1960 and all the applicable retirement/terminal benefits. It is stated that though he had rendered 12 years of qualifying service at TNEB, the pension has been denied. Hence the petition.

4. It is the submission of the learned counsel for the petitioner that similarly placed only resigned after rendering 13 to 15 years of services has been paid with 50% pension and hence the same benefit should be extended for the petitioner also. It is further submitted that the petitioner had resigned the job just in order to join in some other service for which he got selected and hence his resignation should be taken as technical resignation, as per the Official Memorandum No.28020/1/2010-Estt.(C), Government of India, Ministry of Personnel, Public Grievances & Pensions (Department of



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Personnel & Training) Dated the /04/2016.

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5. The petitioner who got appointment as an Assistant Engineer Mechanical in the respondents corporation and he rendered his service from 27.01.1989 to 31.01.2001. The petitioner has submitted his resignation with an intention to take some other job and his resignation was also accepted by the respondents corporation by issuing the following conditional order dated 31.01.2001. The above order has forfeited the part service of the petitioner and it reads as under:

“ He is informed that he forfeits not only the services rendered by him in the particular post held by him at this time of resignation but also his previous service under T.N.E.B. ”

6. However, the petitioner has not chosen to challenge the order dated 31.01.2001, which had stated in categorical terms that the past services of the petitioner with the respondents corporation will be forfeited in view of after acceptance of resignation.

7. Mr. K. Rajkumar, learned standing counsel for the respondents 1, 2 & 4 submitted that the claim made by the petitioner that there are other



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similarly placed persons who had resigned their job after rendering 13 years and 14 years of services and granted with pension is not true.

8. The Petitioner has stated that one Mrs. S.Jayanthi, Assistant Executive Engineer (AEE)/Electrical), TNEB and Mrs. I. Tara Ramesh, Assistant Executive Engineer (AEE) (Electrical), TNEB, who joined the Rural Electrification Corporation Limited (REC Ltd) after their respective technical resignation from TNEB, upon completion of 10 years of service. But the said fact is not substantiated with any supportive materials.

9. According to Rule 23 of the Tamil Nadu Pension Rules, resignation from a service or post would result in forfeiture of past service. However, the resignation will not result in forfeiture of his service, if it has been made to take up another appointment whether temporary or permanent under the government where service qualifies, and with proper permission.

10. The petitioner submitted that the proviso to Rule 23 of the Tamil Nadu Pension Rules, is applicable to his case, as he had submitted the resignation through proper channel. As stated already, the petitioner had



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agreed to forfeit his services under Tamil Nadu Electricity Board and he acquiesced the said conditional order for all these years. And he did not choose to challenge the order dated 30.01.2001, which dis-entitled him from claiming the benefit of his previous service.

11. Having failed to challenge the order which forfeited the past services of the petitioner, now as an afterthought the petitioner has filed this petition for seeking directions and to set aside the order dated 24.09.2020. After the petitioner switched over his job to a different institution, he can serve there till his superannuation and after his retirement, he will be entitled to get the eligible pension from the said institution. Since the pension is consequent to the retention of the past service, the same can be claimed only if the services are available. As stated already the services of the petitioner with the respondent has already been forfeited and the forfeiture order was not challenged so far.

In the result, this Writ Petition stands **dismissed**. No costs.

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jrs

Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



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To

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