



W.P.No.32131 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.32131 of 2014

P.Dhanaseelan

..... Petitioner

-Versus-

The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
TANDEDCO,
Dharmapuri-3.

..... Respondent

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Mandamus directing the respondent to include the period of service rendered by the petitioner from 10.06.1982 to 28.04.1995 for the purpose of pensionary benefits, including DCRG, Commutation of Pension, Surrender, Pension, etc.

For Petitioner : Mr.A.E.Ravichandran

For Respondent : Mr.K.Rajkumar



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ORDER

This writ petition has been filed seeking a writ in the nature of mandamus, directing the respondent to include the period of service rendered by the petitioner from 10.06.1982 to 28.04.1995 for the purpose of pensionary benefits, including DCRG, Commutation of Pension, Surrender, Pension, etc.

2. The petitioner was working as an Assessor on the rolls of Dharmapuri Electricity Distribution Circle. He served between 1982 and 1984 in Ramiyanahally sub station. He was previously working as helper. Totally six charges were framed against him viz., (1) falsification of records, (2) collection of large amount from consumers but remitting of lesser amount, (3) misappropriation both permanent and temporary, (4) non-issuance of original receipts to consumers, (5) disobedience of lawful instructions given by superior officers and (6) negligence in discharge of his duty. After enquiry, he was dismissed from service.

3. Challenging the order of dismissal, he raised an industrial dispute in I.D.No.145 of 1992 on the file of the Labour Court, Vellore. The said ID came to be allowed interfering with the quantum of punishment alone on 17.11.1994. The labour court had held as follows:-

“18. In the result, the punishment of dismissal imposed on these petitioners is ordered to be set aside



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and instead they are ordered to be reduced to the lower cadre of Helper and they will not be considered promotion for 2 years hereafter and the Board is directed to reinstate them in the reduced rank of Helper. The petitioners are also found not entitled to any backwages. With this modification in respect of punishment, their claim is otherwise dismissed. The parties are directed each to bear their own cost.”

4. The petitioner, thereafter, moved the respondent board for calculating his employment period from 1982 to 1984 for the purpose of fixation of pension. That request was rejected stating that the aforesaid award, the relevant portion of which has been extracted in the previous paragraph, had only interfered with the punishment and had rejected all other prayers including back wages and continuity of service. Apart from that, at the time of calculating pensionable service, the date of entry into service in the board was taken as 29.04.1995 that was the date on which pursuant to the award of the labour court, the petitioner was issued with an order of appointment to join as helper.

5. The learned counsel for the petitioner would submit that by virtue of the order of the labour court, the petitioner is entitled to calculate all his past service and in any event, his entry into service must be the date on which the



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award has been passed in I.D.No.145 of 1992, i.e., 17.11.1994 and not 29.04.1995.

6. Mr.K.Rajkumar, learned counsel appearing for the respondent board would point out that the petitioner is not entitled for any other reliefs and that the writ petition deserves only dismissal.

7. I have carefully considered the arguments of either side.

8. Taking up the first point that the petitioner is entitled for continuity of service, I have to point out that in para 17 of the said award the labour court had specifically stated as follows:-

“17. I intend only interfere with the punishment imposed on these petitioners. Otherwise the finding of guilty of charges made against the petitioners is to be confirmed.”

Having come to such a conclusion, the labour court set aside only a portion of the order relating to dismissal and reinstated the petitioner in the reduced rank of helper and in all other respects, the order of the respondent board stood upheld. Therefore, there is no question of seeking continuity of service from 1982 till date of award because, it had been rejected by the labour court.

9. Turning to the next point, the award of the labour court having been informed to the respondent board, it comes into effect immediately on its



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pronouncement i.e., on 17.11.1994. Therefore, the calculation of date of entry into service must be from 18.11.1994 and not from 29.04.1995. Therefore, the respondents shall recalculate the pension payable to the petitioner taking into account the date of joining in service as 18.11.1994 and not 29.04.1995. The respondent shall refix the pension and pay the pension arrears which the petitioner is entitled to as per rules. This is because the calculation of the date is not due to any mistake of the petitioner but due to the mistake of the respondent board.

In the result, the writ petition is allowed in part with the above directions. It is made clear that the impugned order insofar as it relates to date of joining in service alone is set aside and in all other respects, the writ petition stands dismissed. No costs.

19..06..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

1.The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
TANDEDCO, Dharmapuri-3.



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V.LAKSHMINARAYANAN, J.

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