

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED : 24.01.2023****CORAM****THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH****W.P No.1555 of 2023**

G.Annamalai

Petitioner

vs.

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

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the letter No.005089/86/SE/VEDC/Adm.3/A.1/2022 dated 27.04.2022 passed by the respondent, quash the same and consequently direct the respondent to give appointment to the petitioner as per clause 5 of BP 9 dated 09.01.2008 and pass order or orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.S.T.Varadarajalu

For Respondents : Mr.S.Haroon for
M/s.T.S.Gopalan & Co.**ORDER**

This writ petition has been filed challenging the impugned proceedings of

the respondent dated 27.04.2022 and for a consequential direction to the



respondent to give appointment to the petitioner as per Clause 5 of BP 9, dated 09.01.2008.

2.The case of the petitioner is that he joined as a Casual Labour before the Electricity Board in the year 1986 and on completion of 480 days in twenty four calender months, his services were regularized as Helper. Since, the same was not recognized by the Management, the petitioner filed a petition under Section 3 of the Tamil Nadu Industrial Establishment (Permanent Status to Workmen) Act, 1981 before the Inspector of Labor, Vellore seeking for permanency. The Inspector of Labor, Vellore by an order dated 21.01.2002 directed the respondent to regularize the services of the petitioner in his post as Helper from the date when the petitioner completed 480 days i.e., from 01.03.1988.

3.Subsequent to the above order, the petitioner filed a claim petition in Claim Petition No.80 of 2016, claiming for the difference in wages before the Labour Court, Vellore and the claim petition was allowed by an order dated 29.04.2017 and the respondent was directed to pay a sum of Rs.3,38,784/- to the petitioner.



4. Aggrieved by the above order, respondent filed a writ petition before this Court in W.P.No.10150 of 2018. This writ petition was disposed of in the following terms:

6. Considering the facts and circumstances of the case, this Court is inclined to set aside the order passed by the first respondent, with the following directions:-

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

(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 2001 and relevant Court proceedings.



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5.The matter was thereafter taken up by the respondent and the claim made by the petitioner was considered in line with the relevant Court proceedings and through the impugned proceedings dated 27.04.2022, the respondent came to a conclusion that there was absolutely no material to prove that the petitioner was at any point of time identified as a regular worker and that there were no records to show that the petitioner has worked after 2007 and the petitioner did not question his disengagement from the year 2008 onwards. In view of the same, the claim made by the petitioner was rejected and aggrieved by the same, the present writ petition has been filed before this Court.

6.Heard Mr.S.T.Varadarajalu, learned counsel appearing on behalf of the petitioner and Mr.S.Haroon, learned counsel appearing on behalf of the respondent.

7.In the considered view of this Court, the order passed by this Court in W.P.No.10150 of 2018 clearly delineated the scope of consideration by the respondent with regard to the claim made by the petitioner.

8.The learned counsel for the petitioner submitted that the petitioner



served between 1986 to 2002 and when the Committee was constituted to determine the contract workers who were regularly engaged, the name of the petitioner was left out even though the petitioner had completed twelve years at that point of time. The learned counsel further submitted that the similarly placed persons numbering 39 contract employees were considered and out of the same, 35 of them were given regularization and they continued to be in service. In view of the same, the learned counsel submitted that the respondent has discriminated and illegally rejected the claim made by the petitioner.

9. In the considered view of this Court, the services of the petitioner was disengaged from the year 2008 onwards and the petitioner never questioned the same. Insofar as other persons who were regularized, regularization had taken place as early as in the year 2002 itself. The respondent in the impugned proceedings has specifically given a finding that the Committee which was appointed to identify the persons, who were engaged for the period from 1998 to 2007, has not identified the petitioner to be one such contract labour and there was no material to show that the petitioner had worked as contract labour and received exgratia at any point of time.

10. Its too late in the day for the petitioner to claim for regularization at



the age of 61 years and the petitioner should have worked out his remedy immediately after he was disengaged as early as in the year 2008 itself. At that point of time, he should have taken a stand that persons who were similarly placed have been regularized and that the petitioner alone was not regularized.

11.This Court does not find any illegality or infirmity in the order passed by the respondent and the same does not require the interference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

12.In the result, this writ petition stands dismissed. No Costs.

24.01.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
SSR



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N. ANAND VENKATESH, J.

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