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W.P.(MD)No.2335 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD)No.2335 of 2018**

**and**

**W.M.P.(MD)Nos.2539 and 2540 of 2018**

V.Srinivasan

... Petitioner

vs.

- 1.The Chairman,  
Tamil Nadu Electricity Board,  
N.P.K.R.R. Maaligai,  
800, Anna Salai,  
Chennai-600 002.
- 2.The Superintending Engineer,  
Madurai Electricity Distribution Circle,  
Tamil Nadu Electricity Board,  
Tuticorin.
- 3.The Executive Engineer  
(Distribution / Rural),  
Tamil Nadu Electricity Board,  
Tuticorin.



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W.P.(MD)No.2335 of 2018

4.The Junior Engineer (Distribution),  
Tamil Nadu Electricity Board,  
Vilathikulam, Tuticorin District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order Ka.No.33200/445/Ni.Mu. /Vu.2/Ko./ Ni.Va / 2017-1, dated 20.12.2017, passed by the 2<sup>nd</sup> respondent and to quash the same and consequently, to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to permanently absorb the petitioner in a suitable post in TNEB, Tuticorin, in accordance with the qualification of the petitioner with effect from September 2007, i.e., the date of absorption of the similarly placed contract labours worked at TNEB unit, Vilathikulam and to grant all the service and monetary benefits with a time limit to be fixed by this Court.

For Petitioner : Mr.T.Sakthikumaran  
For R1 & 3 : Mrs.Malini  
For R2 : No appearance

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W.P.(MD)No.2335 of 2018

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## **ORDER**

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order, dated 20.12.2017, passed by the 2<sup>nd</sup> respondent and consequently to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to permanently absorb the petitioner in a suitable post in TNEB, Tuticorin, in accordance with the qualification of the petitioner with effect from September 2007, i.e., the date of absorption of the similarly placed contract labours worked at TNEB unit, Vilathikulam and to grant all the service and monetary benefits with a time limit to be fixed by this Court.

2. The petitioner has studied SSLC and his contention is that he was engaged as contract labour through contractor from 13.01.1991 in Vilathikulam section of TNEB and has put in more than 5 years of service and his name was included in this Serial No.38 in the list of contract labourers who had completed 5 years. Since the respondents



W.P.(MD)No.2335 of 2018

WEB COPY

have not considered the same, the petitioner had filed W.P.(MD) No.2295 of 2009 to quash the order, dated 05.03.2009 and to direct the respondents to absorb the petitioner in the board service. This Court, vide order, dated 24.11.2010, has dismissed the writ petition stating that the petitioner has not received any ex-gratia payment. The petitioner has stated in the affidavit that he had complied with the Condition Nos.2 and 5. But the Learned Single Judge had held that the petitioner has raised disputed question of facts and the petitioner has not submitted any evidence that he had received ex-gratia payment from 2005 onwards and dismissed the writ petition vide order, dated 24.11.2010.

3. Aggrieved over the same, the petitioner has filed writ appeal in W.A.(MD)No.61 of 2012 and the Hon'ble Division Bench of this Court, vide judgment, dated 14.02.2017 allowed the appeal and remitted the matter back to the second respondent. The employees were directed to submit their individual explanations as to why they have not received the



W.P.(MD)No.2335 of 2018

WEB COPY

ex-gratia amount and also to submit the documents with regard to their continuous service. On receipt of such explanation, the second respondent was directed to consider the appellant's case afresh in the light of B.P. Proceedings No.9, dated 09.01.2008 and pass appropriate orders after giving sufficient opportunity. If the employee's name is not in the list, the TNEB was directed to pass appropriate speaking orders. Based on this order, the petitioner submitted an explanation, dated 06.05.2017. After considering the same the impugned order, dated 20.12.2017 was passed.

4. In the impugned order, it has been stated that based on the orders passed by the Court, the petitioner was called for personal hearing on 28.06.2017. In the enquiry, it was stated that the petitioner had submitted any evidence that he had received ex-gratia payment. The petitioner had not submitted any evidence that EPF was deducted from the petitioner and the respondent is also not having any records that EPF



W.P.(MD)No.2335 of 2018

WEB COPY

was deducted from the petitioner. Moreover, if the petitioner had worked continuously from 1991 to 2007, then the petitioner would have appeared before the verification committee in the year 1998 or 2007 and the committee would have identified the petitioner and the petitioner would have been absorbed. Since the petitioner was not identified by the committee and the petitioner has no evidence to show he had continuously worked from 1991 to 2007, then the petitioner is not entitled to be absorbed.

5. This Court is of the considered opinion admittedly, the petitioner has received some ex-gratia payment intermediately and not continuously and hence the claim of the petitioner was rejected. Since the petitioner has not submitted any evidence that he has served under any contractor and has not shown any evidence of EPF deduction while he was serving as contract labour, the respondents have rejected the claim of the



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W.P.(MD)No.2335 of 2018

petitioner. Therefore the rejection is valid and the impugned order is legally sustainable and the petitioner cannot seek any absorption.

6. Hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No  
Internet : Yes  
NCC : Yes / No

**13.04.2023**  
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WEB COPY



W.P.(MD)No.2335 of 2018

**S.SRIMATHY, J**

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W.P.(MD)No.2335 of 2018

13.04.2023  
(2/2)