

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD) No.5361 of 2018
and WMP (MD) No.5306 of 2018

S.Perumalsamy

... Petitioner

-vs-

1.The Chairman

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
No.144 Anna Salai, NPKPR Maligai
Chennai 600 002.

2.The Chief Engineer Personnel

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
No.144 Anna Salai, Chennai 600 002.

3.The Secretary

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
No.144 Anna Salai, Chennai 600 002.

4.The Chief Internal Audit Officer,

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
No.144 Anna Salai, Chennai 600 002.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 2nd respondent in Letter No.077697/298/G19/G192/2013-3 dated 03.04.2014 and quash the same and consequently direct the respondents to count the half of the services rendered by the petitioner in Noon Meal Programme Department (ie. From 16.06.1983 to 15.11.1995) for calculation of Pension and other pensionary benefits and to pay the arrears of pension within the stipulated time that may be fixed by this Court.

For Petitioner	:	Mr.M.Saravanakumar
For Respondents	:	Mrs.M.Parameswari

ORDER

Challenging the impugned order of the 2nd respondent dated 03.04.2014 and for a direction to the respondents to count the half of the services rendered by the petitioner in Noon Meal Programme Department (ie. From 16.06.1983 to 15.11.1995) for calculation of Pension and other pensionary benefits and to pay the arrears of pension, the petitioner is before this Court with this writ petition.

2. The learned counsel for the petitioner would submit that the petitioner was selected and appointed through the employment exchange as Noon Meal Organizer in the social welfare department on 16.06.1983 on consolidated pay. Accordingly, he worked for about 15 years without break. In the year 1995, he was selected and appointed to the post of Assessor in the respondent Corporation. On such selection, he resigned the post of Noon meal Organizer and accordingly, he was relieved on 15.11.1995 and he joined in the respondent Corporation on 16.11.1995. In the respondent department, he was regularised and on attaining the age of superannuation, he retired on 31.01.2012. It is his case that he served in the respondent corporation for 17 years and as noon meal organizer for a period of 15 years in the social welfare department. Therefore, it is his claim that after retirement, he is entitled for pensionary benefits and his total period of 32 years ought to have been calculated for the purpose of pensionary benefits. For disbursement of such pensionary benefits, the petitioner made a representation to the respondents. However, the respondents refused to include the 15 years of his service rendered as Noon Meal Organizer. Since the same was rejected, the petitioner is before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that the petitioner is entitled for terminal and other benefits for the services rendered as Noon Meal Organizer from 16.06.1983 to 15.11.1995. It is his further case that the petitioner's services in the social welfare department has to be calculated for the purpose of pensionary benefits. He would further submit that as per Rule 11 (4) of the Tamil Nadu Pension Rules, 1978, the half of the services rendered under the State Government in non provincialised service, consolidated pay, honorarium shall be counted for retirement benefits along with regular service and therefore, prays for appropriate direction.

4. The learned counsel for the respondents, by relying upon the counter affidavit, would submit that there is no provision in the Tamil Nadu Pension Rules, 1978 to count the half of the services rendered in the social welfare department. As per Rules 11 and 12 of the said Rules, the qualifying services rendered in the Government and paid by the Government alone would be calculated for

pensionable services and as such there is no question of counting the half of the services rendered by him in the social welfare department. It is her further contention that only after tendering his resignation, the petitioner joined in the respondents corporation and therefore, there is no question of calculating the services rendered in the social welfare department and hence, no interference is warranted.

5. Heard the learned counsel for the petitioner, the learned counsel for the respondents and perused the materials available on record.

6. Admittedly, the petitioner worked as a Noon Meal Organiser from 16.06.1983 to 15.11.1995 in the social welfare department. Subsequently, he was appointed as an Assessor on 16.11.1995 in the respondent corporation and retired on 31.01.2012. The grievance of the petitioner appears to be that his half of the past services rendered in the social welfare department is to be counted for the purpose of pensionable service. However, the fact remains that the petitioner confused himself with regard to pensionable service in the respondent corporation and in the social welfare department. It is pertinent to note here that the petitioner after resigned his job as noon meal organizer, then only joined in the respondent Corporation and it doesn't mean that his half of the services rendered in the social welfare department has to be calculated for the purpose of pension. One more aspect to be seen in the writ petition is that the petitioner has not arrayed the social welfare department as party respondents in the present writ petition. However, the issue arises in the present case is settled by the Apex Court in ***Palure Bhaskar Rao and others v. P.Rameseshaiah and others (2017) 5 SCC 783.***

7. In view of the above settled legal position rendered by the Apex Court, the prayer that has been sought for cannot be granted. Accordingly, this writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/03/2023

Sub Assistant Registrar(CS)

RR

To

1.The Chairman

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+1 CC to M/s.M.SARAVANA KUMAR, Advocate (SR-10164[F] dated
23/02/2023)

+1 CC to M/s.M.PARAMESWARI, Advocate (SR-9737[F] dated 22/02/2023)

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