



W.P.(MD)No.6673 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.6673 of 2018
and
W.M.P.(MD)No.6454 of 2018**

1. M.Anbalagan
2. D.Ganesan
3. S.Swaminathan
4. M.Balakrishnan
5. K.Kuppusamy
6. S.Rajan
7. C.Manickam
8. K.S.Seetharaman

... Petitioners

Vs.



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1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Annasalai,
NPKRR Maligai,
Chennai - 600 002.
2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.
3. The Secretary,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.
4. The Chief Internal Audit Officer,
Tamil Nadu Generation and Distribution
Corporation Limited,
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, calling for the records in pursuant to the impugned order passed by the second respondent in Letter No.027309/121/G.19/G.192/2014, dated 05.04.2014 and Letter



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No.027303/115/G.19/G.192/2014, dated 05.04.2014 and quash the same and consequently, direct the respondent to count the services rendered by the petitioners in Kumbakonam Rural Electric Co-operative Society (i.e., from 25.02.1988 to 14.03.1995) for calculation of pension and other pensionary benefits and to pay the arrears of pension.

For Petitioners : Mr.M.Saravanakumar
For Respondents : Mr.Ananad Gopalan
for M/s.T.S.Gopalan and Co

ORDER

This Writ Petition has been filed to call for the records of the impugned orders passed by the second respondent in Letter No. 027309/121/G.19/G.192/2014, dated 05.04.2014 and Letter No. 027303/115/G.19/G.192/2014, dated 05.04.2014, quash the same and consequently, direct the respondents to count the services rendered by the petitioners in Kumbakonam Rural Electric Co-operative Society (i.e., from 25.02.1988 to 14.03.1995) for calculation of pension and other pensionary benefits and to pay the arrears of pension.



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2. The case of the petitioners is that the petitioners were initially appointed as Billing Agent in Kumbakonam Rural Electric Co-operative Society on daily wage basis from the year 1985 onwards. The Kumbakonam Rural Electric Co-operative Society undertook the service, supply and distribution of Electricity (power supply) to certain areas of Kumbakonam and suburbs. It procures the power supply from the Tamil Nadu Electricity Board at concessional rates and distributes the power to local consumers / customers and collects the charges from them according to the amount of consumption of power. Thereby, the Co-operative Society earns substantial profits, from the earnings, they paid the amount to the petitioners. Subsequently, the said Society was taken over by the Electricity Board and pursuant to which, the petitioners were also absorbed in the regular vacancy of the Electricity Board on 05.07.1999. Subsequently, the petitioners were retired from 2010 onwards and thereafter they came to know that the petitioners initial services rendered in Co-operative Society is also calculated for the purpose of pension. Thereby the petitioners made representation on 18.03.2014 and the same was rejected by the second



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respondent through impugned order dated 05.04.2014. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly the petitioners were initially employed as Billing Agent on daily wage basis and as per Rule 11(4), the 50% of the initial employment has to be taken into consideration for the purpose of pension and however, the same was rejected is not sustainable one. He further submitted that already the petitioners raised an Industrial Dispute and the Labour Court issued a direction to the respondents to regularise the services of the petitioners from the date of initial appointment and the same was not considered is not sustainable one. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the respondents would submit that even the regularization order dated 15.03.1995 makes it clear that the petitioners were initially appointed as Collection Agent in Kumbakonam Rural Electricity Co-operative Society on commission basis



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and subsequently, appointed as Helper Assistant in the respondent Corporation with effect from 01.03.1995 based on the additional cadre strength sanctioned by the respondent Corporation and the petitioners were well aware that the regularisation order is based on the additional sanctioned strength by the Electricity Board and not on the basis of the industrial dispute raised by the petitioners. However, if at all the petitioners claimed that they are having every right based on the industrial dispute, they have to work out their remedy before the Labour Court and not by way of Writ Petition since the petitioners have not rendered any regular service in the respondent Corporation, they acted as a Commission Agent in the Society and the services rendered by the petitioners in the Society is all together different from the services rendered in the respondent corporation. Hence, Rule 11(4) of the Pension Rules is not applicable to the petitioners. Accordingly, he prayed for dismissal of the Writ Petition.

5. Heard the learned counsel for the petitioner and the learned Additional Advocate General appearing for the respondents.



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6. The facts in the present case are not in dispute. Admittedly the petitioners claimed that they initially appointed on daily wages basis in the respondent Corporation as a Billing Agent, whereas the respondents claimed that they were initially worked as Commission Agent in the respondent Society and thereafter the said Society was taken over by the respondent Corporation and the petitioners were absorbed as regular employees in the respondent Corporation based on the additional cadre strength sanctioned by the respondent Corporation dated 01.03.1995. Though the respondents claimed that the petitioners were initially worked as Commission Agent, the Commission Agent post cannot be compared with the regular post in the Co-operative Society and the service rendered in the Co-operative Society is altogether different from the service rendered in the respondent Corporation. Further the petitioners were absorbed not in terms of the Labour Court award but based on the independent resolution and additional cadre strength sanctioned by the respondent Corporation. Hence, the claim made by the petitioners is misconceived. Further the petitioners retired between 2010 and 2017 and they well aware that their regularisation is only on 01.03.1995 and instead of challenging the same in appropriate time,



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filing the present Writ Petition after a decade is not sustainable one. Hence, the prayer sought for in the present Writ Petition cannot be granted.

7. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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