



Writ Petition No.10769 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.10769 of 2012

A.Md.Jalaludin

...Petitioner

Vs.

1.The Tamilnadu Electricity Board
Rep.by its Chairman
Anna Salai, Chennai – 2.

2.The Chief Engineer (Personnel)
Tamilnadu Electricity Board
Anna Salai, Chennai – 2.

3.The Superintending Engineer
Vellore Electricity Distribution Circle
Gandhi Nagar, Vellore – 6.

...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 of the 3rd respondent in his Letter No.26300/667/Adm.3/A.1/F.WP/2011 dated 01.12.2011 and quash the order passed therein and direct the respondents to recalculate and pay the terminal and pensionary benefits by counting the services rendered by the petitioner in Coimbatore Corporation Electricity Undertaking from 27.09.1971 to



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16.03.1979, along with services rendered in Tamil Nadu Electricity Board from 17.03.1979 to 31.10.2004.

For Petitioner : Mr.P.Arumuga Rajan

For Respondents : Mr.K.Rajkumar, Standing Counsel

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in Letter No.26300/667/Adm.3/A.1/F.WP/2011 dated 01.12.2011 and quash the order passed therein and direct the respondents to recalculate and pay the terminal and pensionary benefits by counting the services rendered by the petitioner in Coimbatore Corporation Electricity Undertaking from 27.09.1971 to 16.03.1979, along with services rendered in Tamil Nadu Electricity Board from 17.03.1979 to 31.10.2004.

2. The case of the petitioner is that originally the petitioner was selected and appointed as Testing Assistant Grade II in Coimbatore Corporation Electricity Undertaking, with effect from 27.09.1971 and it was an appointment on regular basis. Subsequently, he was selected for appointment to the post of Assistant



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Engineer (Electrical) in the Tamil Nadu Electricity Board (TNEB) in the year 1979 and his selection to the said post was on the basis of his application, routed through proper channel. Consequent upon his selection as Assistant Engineer in the TNEB, he tendered his resignation to Coimbatore Corporation Electricity Undertaking, the same was accepted and he was relieved in the afternoon of 16.03.1979. Immediately he joined duty in TNEB in the forenoon of 17.03.1979 and rendered unblemished and continuous service to the TNEB for a period of more than 25 years and upon reaching the age of superannuation on 31.10.2004, he retired from service in the cadre of Assistant Executive Engineer.

3. The learned counsel appearing for the petitioner would submit that even prior to 5 years of retirement, he sent a representation dated 06.09.1999 to the 2nd respondent, requesting to count the past services in Coimbatore Corporation Electricity Undertaking, for the purpose of terminal and retirement benefits, but the same was rejected by a non-speaking order dated 20.10.1999 by the 2nd respondent. Further an appeal to the Chairman of the Board on 19.11.2000 was also rejected by an order of the 2nd respondent dated 27.11.2001, on the ground that the employees of erstwhile Coimbatore Corporation Electricity Undertaking



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have already been absorbed in TNEB, with effect from 01.11.1994, as per the Board Proceeding No.30 dated 18.08.1997.

4. The learned counsel would further submit that the said order also passed by the 2nd respondent and not by the Chairman. Therefore, the petitioner has sent another appeal dated 15.03.2002, pointing out that atleast five persons, who are similarly placed as that of the petitioner were granted the benefit of counting of past services rendered in Municipal Electricity Undertakings and the said representation was forwarded by the 2nd respondent to the Superintending Engineer, directing him to send necessary proposal.

5. Accordingly, the Superintending Engineer sent a proposal dated 17.06.2002 to the 2nd respondent, quoting the relevant Board Proceedings and Government Orders. However, the petitioner did not get a favourable reply and thereafter, 8 months prior to his retirement, he gave another representation dated 16.02.2004 to the Chairman's Grievance Cell. Even that also went in vain. However, after the retirement of the petitioner, he received a letter dated 13.01.2005 from the 3rd respondent stating that the request of the petitioner



cannot be considered, as per the existing rules in force. Therefore, aggrieved by the said order of the 3rd respondent, the petitioner has filed a W.P.No.13352 of 2005 before this Court and this Court by an order dated 29.03.2011 quashed the impugned order of the 3rd respondent with the following directions:-

“7. Therefore, this Court is of the view that the impugned order will have to be set aside. The third respondent has also not indicated the contents of the reference dated 18.12.2004 based upon which the order impugned dated 13.01.2005 has been passed. Therefore, while setting aside the order impugned, the third respondent is directed to furnish a copy of the letter dated 18.12.2004 to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to give a detailed representation raising all grounds, within a period of six weeks from the date of receipt of a copy of the letter dated 18.12.2004. The third respondent is also directed to pass appropriate orders on the representation to be given by the petitioner, within a period of six weeks from the date of receipt of a copy of the representation.”



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Thus, by an order bearing Letter No.26300/667/Adm.3/A.1/F.WP/2011 dated 01.12.2011, the 3rd respondent rejected the claim of the petitioner and aggrieved by the same, the petitioner has filed the present Writ Petition.

6. The learned counsel for the petitioner would submit that the petitioner's service rendered to the Coimbatore Corporation Electrical Undertaking was followed by his services to the TNEB, without any break, even for a single day and the Coimbatore Corporation Electrical Undertaking was part of the Department of Municipal Administration of the Government of Tamil Nadu. Therefore, the services rendered to the Coimbatore Corporation Electrical Undertaking and TNEB are not alien to each other. It is further submitted that the respondents failed to note that several Municipal Electricity Undertakings like, Coimbatore Corporation Electrical Undertaking were absorbed and merged with TNEB and hence the employees who are similarly placed were granted the benefit of absorption. Therefore, the petitioner also be granted the same benefit on the analogy of Board Proceeding (FB) No.30, (Administrative Branch) dated 18.08.1997.



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7. It is further contended that even as per Board Proceeding (FB) No.56, (Sectt.) Branch, dated 12.10.2002, the benefit of counting the past services are available even to persons who resigned from the previous employers, provided their application were forwarded through the previous employer and in the case of the petitioner, his application to TNEB was forwarded by the Coimbatore Corporation Electrical Undertaking. Therefore, the petitioner is entitled for the same benefit. The service rendered to the Coimbatore Corporation Electrical Undertaking was also a service rendered to a Government Undertaking which ultimately merged with subsequent employer, viz., TNEB. In an identical circumstances, a person by name S.Jayaraman, who was appointed to TNEB, after his resignation from Public Works Department was granted the benefit of counting of his past services, under (Per.) B.P.(Ch) No.240, (Sectt. Branch) dated 07.11.1990. Therefore, the petitioner cannot be treated differently, as it would offend Article 14 and 16 of the Constitution of India. Further, the respondents also failed to consider G.O.No.408 dated 25.08.2009, wherein pensionary benefits were granted to employees of non-provincial / consolidated pay / daily wages cadres. Further, the learned counsel for the petitioner drew attention of this



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Court to the Board Proceeding No.56 (Sectt. Branch) dated 12.10.2002 and the relevant portion is extracted hereunder:-

“2.The Government of TamilNadu based on the orders issued by Government of India have agreed for counting the service in the event of absorption of Central Government employees in the State Autonomous Bodies and employees of Central Autonomous Bodies in State Government or state Autonomous Bodies as a reciprocal arrangement and agreed for extending service benefits to the employees of State Government absorbed in Central Autonomous Bodies and State Autonomous Bodies; Employees in Central Government/Central Autonomous Bodies. Further Government accepted pro-rata pensionary liability etc., in respect of employees as mentioned above. Government also agreed to give the above said benefits from 18-4-88 to the employees who are in service of the Government/ Autonomous Bodies irrespective of the date of absorption. The benefits said above are admissible in cases where the individual secure employment directly on his violation when such



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applications are forwarded by the previous Department/Autonomous bodies concerned. The benefits will be ordered only after termination of their lien in the parent Department (i.e.) one year after joining the Central Government/Central Autonomous Body. The pensionary benefits will be sanctioned only upto the date of relief from the State government/State Autonomous Bodies. In respect of post cases of directly recruited employees the extension of the above benefits shall be examined by relaxing the condition of resignation stipulated in the rules provided they are in service as on 18-4-88.”

8. Resisting the Writ Petition, the respondents have filed a counter affidavit in the month of November 2013. Relevant paragraph Nos.4 and 5 are extracted for better understanding and appreciation:-

“4. I submit that the petitioner herein was originally working in Coimbatore Corporation Electricity Undertaking from 27.09.1971. While working in Coimbatore Corporation Electricity Undertaking, he applied for the post of Assistant Engineer/ Electrical in Tamil Nadu Electricity Board



pursuant to a recruitment notification. On being selected to the post of Assistant Engineer/Electrical in Tamil Nadu Electricity Board, the petitioner herein tendered resignation to the Coimbatore Corporation Electricity undertaking and on accepting the same, he was relieved on 16.03.1979. Thereafter, he joined in the services of Tamil Nadu Electricity Board on 17.03.1979 as Assistant Engineer, retired from service as Assistant Executive Engineer on 31.10.2004 on attaining the age of superannuation.

5. I submit that in the mean while, the Coimbatore Corporation Electricity Undertaking was taken over by the Government of Tamil Nadu in G.O. Ms.No.137 Energy dated 31.10.1994 along with other four Municipal undertakings. In G.O. No. 109 Energy dated 14.08.1996, the Government of Tamil Nadu transferred the right, liabilities, assets, obligations, staff etc. of the said undertakings to the Tamil Nadu Electricity Board with effect from the vesting date namely 01.11.1994. The Tamil Nadu Electricity Board in its Letter No. 60124/Acqn/96-1 dated 17 05.1996, evolved proposal for absorbing the staff of the said Coimbatore Corporation



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Electricity Undertaking in various categories of the Board and the Government in G.O. Ms. No.80 Energy dated 06.05.1997 approved the said proposal subject to the contention mentioned in G.O. Ms. No. 675 Finance dated 22.09.2003. In the above circumstances, the petitioner made a representation requesting to treat his services rendered in Coimbatore Corporation Electricity undertaking for the purpose of terminal benefits. The petitioner's representation was considered by the second respondent and in his Memo. Dated 27.11.2001 and 29.01.2003 rejected the same and informed the petitioner that his request for counting his past services rendered in Coimbatore Corporation Electricity Undertaking is not feasible of compliance and the same was also confirmed by the first respondent. His subsequent representation was also rejected by the second respondent and the decision of the second respondent was communicated by the third respondent in the impugned order dated 13.01.2005, Challenging this, the petitioner has filed previous Writ Petition No. 13352/2005 this Hon'ble court was directed the 3rd respondent to furnish a



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copy of the letter dated 18.12.2004 to petitioner within a period of 4 weeks and receipt of the same he was directed to give a detailed representation and 3rd respondent was directed to pass orders on the same with a period of 6 weeks thereof. The petitioner's representation was considered by the 3rd respondent and in his Memo dated 01.12.2011 reject the same and informed that the petitioner while joining in the service of Tamil Nadu Electricity Board had resigned his job in Coimbatore Corporation Electricity Undertakings was taken over by the Government of Tamil Nadu and transferred the same to the Tamil Nadu Electricity Board in (Per) Board Proceeding (Full Bench) No.30 dated 18.08.1997, the Board had absorbed the employees who were actually working in Coimbatore Corporation Electricity undertaking on the date of vesting. However, in the case of the petitioner, he had already resigned from the service of the Coimbatore corporation electricity undertaking and joined in Tamil Nadu Electricity Board."

9. Heard both sides and perused the materials available on record.



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10. In the case on hand, it is an admitted fact that the petitioner was initially working as Testing Assistant Grade II in the Coimbatore Corporation Electrical Undertaking and subsequently selected as Assistant Engineer in TNEB, in the year 1979. Thereafter, he tendered resignation in Coimbatore Corporation Electrical Undertaking and joined duty in TNEB on 17.03.1979. The petitioner has rendered unblemished and continuous service for a period of more than 25 years and retired from service on attaining the age of superannuation on 31.10.2004, in the cadre of AEE. He has made several representations to the respondent Board, to consider his past service in the Coimbatore Corporation Electrical Undertaking, for pensionary benefits. Representations given by the petitioner were rejected by the respondents for the reason that the Government / Municipal Administration have not issued any such orders for accepting the pension liabilities.

11. On the other hand, the Coimbatore Corporation Electrical Undertaking was taken over by the Government of Tamil Nadu vide G.O. Ms.No.137 Energy dated 31.10.1994 along with other four Municipal undertakings and vide G.O.



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No. 109 Energy dated 14.08.1996, the Government of Tamil Nadu transferred the right, liabilities, assets, obligations, staff etc. of the said undertakings to the Tamil Nadu Electricity Board with effect from the vesting date namely 01.11.1994. The Tamil Nadu Electricity Board in its Letter No. 60124/Acqn/96-1 dated 17.05.1996, evolved proposal for absorbing the staff of the said Coimbatore Corporation Electricity Undertaking in various categories of the Board and the Government in G.O. Ms. No.80 Energy dated 06.05.1997 approved the said proposal subject to the contention mentioned in G.O. Ms. No. 675 Finance dated 22.09.2003.

12. The main contention of the respondents is that the petitioner resigned his post in Coimbatore Corporation Electricity Undertaking and after that he joined the TNEB, which has taken over by the Government of Tamil Nadu and the Board has absorbed the employees who are actually working in the Coimbatore Corporation Electricity Undertaking on the date of vesting, i.e., 01.11.1994. The learned counsel for the petitioner drew attention of this Court to the Board Proceeding (FB) No.56, (Sectt.) Branch, dated 12.10.2002 and the relevant portion is extracted hereunder:-



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“2.The Government of TamilNadu based on the orders issued by Government of India have agreed for counting the service in the event of absorption of Central Government employees in the State Autonomous Bodies and employees of Central Autonomous Bodies in State Government or state Autonomous Bodies as a reciprocal arrangement and agreed for extending service benefits to the employees of State Government absorbed in Central Autonomous Bodies and State Autonomous Bodies; Employees in Central Government/Central Autonomous Bodies. Further Government accepted pro-rata pensionary liability etc., in respect of employees as mentioned above. Government also agreed to give the above said benefits from 18-4-88 to the employees who are in service of the Government/ Autonomous Bodies irrespective of the date of absorption. The benefits said above are admissible in cases where the individual secure employment directly on his violation when such applications are forwarded by the previous Department/Autonomous bodies concerned. The benefits will be ordered only after termination of



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their lien in the parent Department (i.e.) one year after joining the Central Government/Central Autonomous Body. The pensionary benefits will be sanctioned only upto the date of relief from the State government/State Autonomous Bodies. In respect of post cases of directly recruited employees the extension of the above benefits shall be examined by relaxing the condition of resignation stipulated in the rules provided they are in service as on 18-4-88.”

13. In view of the above Board Proceeding (FB) No.56, (Sectt.) Branch, dated 12.10.2002, petitioner's past service in the Coimbatore Corporation Electricity Undertaking has to be calculated for payment of pensionary / terminal benefits, by counting the past service of the petitioner.

14. In view of the factual matrix of the case, this Court is of the considered view that the order of the 3rd respondent in No.26300/667/Adm.3/A.1/F.WP/2011 dated 01.12.2011 is liable to be quashed and the same is hereby quashed.

15. In the result, this **Writ Petition stands allowed.** The respondents are



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directed to recalculate and pay the terminal and pensionary benefits by counting the services rendered by the petitioner in Coimbatore Corporation Electricity Undertaking from 27.09.1971 to 16.03.1979, along with the services rendered in Tamil Nadu Electricity Board from 17.03.1979 to 31.10.2004 within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

06.02.2024

Index : Yes / No
Internet : Yes / No
Speaking order / Non-speaking order
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To

1.The Chairman
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