



WEB COPY



W.P.No.1964 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

CORAM

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

W.P.No.1964 of 2012

L.Gurumurthy

.. Petitioner

Vs

1.The Tamil Nadu Electricity Board
Rep. by its Chairman
No.800, Anna Salai
Chennai 600 002

2.The Chief Engineer (Personnel)
TNEB, No.800, Anna Salai
Chennai 600 002

3.The Assistant Engineer (O&M)
MEDe/West
Ambattur North Section
Ambattur, Chennai 600 053

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in letter No.034334/380/G.61/G.612/2011-7 dated 23.09.2011 and quash the same and direct the respondent to regularize the services of the petitioner in the light of B.P.No.9 dated 09.01.2008.



W.P.No.1964 of 2012

For Petitioner : Mr.K.Shanmugakani
For Respondents : Mr.Venkatesh Prasad
for M/s.T.S.Gopalan & Co.

ORDER

The letter No.034334/380/G.61/G.612/2011-7 dated 23.09.2011 issued by the 2nd respondent is under challenge in this writ petition.

2. Heard Mr.K.Shanmugakani, learned counsel appearing for the petitioner and Mr.A.P.Venkatesh Prasad, learned counsel representing M/s.T.S.Gopalan & Co. for the respondents.

3. The petitioner submitted that he joined as a contract worker in the Tamil Nadu Electricity Board on 04.02.1998 and he was employed till December 2003.

4. As per the orders passed by this Court in W.P.No.6561 of 2011, the petitioner's representation was considered and the impugned order came to be passed stating that there are no records available with the Board in respect of the petitioner's engagement as a contract labourer. The relevant portion of the



W.P.No.1964 of 2012

impugned order is extracted hereunder :

WEB COPY

“2. Further, your representation along with the report of Superintending Engineer/Chennai Electricity Distribution Circle/West has been examined by the Committee as per B.P.No.9, dated 09.01.2008 in detail and informed that those Contract Labourers worked prior to 06.01.1998 and working continuously without break in service for more than 3 months above are considered for absorption.

3. You are also informed to this office that you are not engaged as Contract Labourer in the Board and there is no records available for your engagement during the period 04.02.1998 to 2003 as referred in your letter.

4. In view of the above reasons you are informed that your request for regularisation is not feasible of compliance.”

5. Mr.A.P.Venkatesh Prasad, learned counsel appearing for the respondents strenuously contended that the petitioner was disengaged from service in the month of December 2003 and he gave a representation only in the year 2010, after a lapse of 7 years and it was duly rejected by the 2nd respondent by an Order dated 23.09.2011. He further contended that the writ petition suffers from inordinate delay. He also contended that subsequent to the orders of the Supreme Court lifting the ban on recruitment from January 1999 onwards, as per the Board's proceedings dated 09.01.2008, the Committee identified around 4,000 persons, who were engaged continuously and



W.P.No.1964 of 2012

recommended for their absorption. Accordingly, based on the above said Board's proceedings, 4,273 posts were created and identified persons were absorbed.

6. The petitioner has stated that he joined as a contractual worker in the Tamil Nadu Electricity Board on 04.02.1998 and till December 2003, he was employed. From the list of contractual labourers produced by the Assistant Engineer, Ambattur North Section, it appears that the petitioner joined the services of Tamil Nadu Electricity Board as a contractual labour on 04.02.1998. The petitioner further stated that he was disengaged from service in December 2003, for which papers are available with the respondents.

7. The petitioner filed W.P.No.6561 of 2011 for a direction against the respondents to consider his representation dated 15.11.2010. Thereafter, this writ petition is filed after a period of 9 years, challenging the order passed by the respondent, pursuant to the orders passed by this Court in W.P.No.6561 of 2011. In support of his contention, the learned counsel for the petitioner relied on the Judgment of the Supreme Court in ***S.M.Nilajkar and Others vs. Telecom, District Manager [(2003)4 SCC 27]***, wherein, there was a delay of nearly 7 to 9 years in raising the disputes by the workmen, who were engaged



W.P.No.1964 of 2012

as casual labourers for the purpose of expansion of telecom facilities in the

State of Karnataka. The Supreme Court opined as under:

“... The fact remains that there was delay, though not a factual one, in initiating proceedings calculating the time between the date of termination and initiation of proceedings before the Industrial Tribunal-cum-Labour Court. The employee cannot be blamed for the delay. The learned single Judge has denied the relief of backwages while directing the appellants to be reinstated.”

8. In the said case, proceedings at the first instance, was initiated by the workmen before the Industrial Tribunal-cum-Labour Court. Thereafter, it came up before the High Court and on appeal, it went to the Supreme Court. Therefore, I am of the considered view that the said case will not apply to the facts of this case.

9. Mr.A.P.Venkatesh Prasad, learned counsel appearing for the respondents submitted that the petitioner is neither covered under Section 12(3) settlement nor under the Board's proceedings dated 09.01.2008.

10. It is not the case of the petitioner that he has been paid *ex gratia* up to the year 2003. Therefore, it is inferable that the petitioner has not been paid *ex gratia* at all. *Ex facie*, there are rival contentions. Therefore, this Court



W.P.No.1964 of 2012

is of the considered view that the petitioner has to approach the competent forum to ventilate his grievances. On that score, the contentions of the petitioner are kept open.

Based on the aforesaid discussion, this writ petition stands disposed of accordingly. There is no order as to costs.

26.06.2024

gya

Index : Yes/No

Neutral Citation : Yes/No



W.P.No.1964 of 2012

WEB COPY

- To
- 1.The Chairman
Tamil Nadu Electricity Board
No.800, Anna Salai
Chennai 600 002
 - 2.The Chief Engineer (Personnel)
TNEB, No.800, Anna Salai
Chennai 600 002
 - 3.The Assistant Engineer (O&M)
MEDe/West
Ambattur North Section
Ambattur, Chennai 600 053



WEB COPY



W.P.No.1964 of 2012

R.KALAIMATHI, J.

gya

W.P.No.1964 of 2012

26.06.2024