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W.P.No.9030 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.9030 of 2021

K.P.Pandiyan

... Petitioner

Vs.

1.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
N.P.K.R.R. Maaligai,
800, Anna Salai,
Chennai 600 002.

2.The Superintending Engineer,
Thiruvannamalai Electricity Distribution Circle,
Venkikal,
Thiruvannamalai 606 604,
Thiruvannamalai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order bearing letter No.12549/Me.Po.Ni.Aa/Ni.bi - 2/00.4/2021 dated 04.01.2021 by the second respondent and quash the same and consequently, direct the respondents to issue the retirement, service benefits and all other benefits.

For Petitioner : Ms.M.Srinidhi for



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Mr.M.Jaikumar
For Respondents : Mr.K.Rajkumar, SC

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order bearing letter No.12549/Me.Po.Ni.Aa/Ni.bi - 2/00.4/2021 dated 04.01.2021 by the second respondent and quash the same and consequently, direct the respondents to issue the retirement and all other benefits.

2. Heard Ms.M.Srinidhi, learned counsel for the petitioner and Mr.K.Rajkumar, learned Standing Counsel for the respondents.

3. The petitioner worked as a Contractual Labourer from 05.05.1980 and reposted as Helper with the second respondent from 22.09.1991 in the regular work establishment basis. The petitioner has sent a representation to the respondents to correct the initial of his name as it was wrongly mentioned in the order of appointment. In this regard, he has also filed a Writ Petition in W.P.No.9520 of 2006 and on the direction of this Court made in W.P.No.9520 of 2006, the second



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respondent has issued an appointment order by rectifying the error in the initial of the petitioner on 29.06.2006. The petitioner retired from service on 30.04.2016. However he was not given with pensionary benefits. Hence he filed a Writ Petition in W.P.No.44430 of 2016 and in the said Writ Petition, a direction has been given to the respondents. Consequent to that, the impugned order has been passed on 04.01.2021 by rejecting the petitioner's request for pension and other retirement benefits like DCRG and commutation.

4. The learned Standing Counsel for the respondents submitted that when the petitioner was given with appointment order on 29.06.2006, he did not challenge the same by stating that his initial appointment would relate back to 22.09.1991. Having accepted the appointment order dated 29.06.2006 and thereafter, worked with the respondents without any murmur, the petitioner cannot all of a sudden claim that he is entitled to pensionary benefits. According to the respondents, the petitioner had joined service after the crucial date of 01.04.2003 and hence he is not entitled to any pensionary benefits.



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5. But the records would show that the petitioner was initially appointed on 22.09.1991. The order dated 29.06.2006 came to be passed only in pursuant to the Writ Petition filed to consider his request to change his initial in the year 2006. So the order dated 29.06.2006 cannot be considered as a fresh appointment, but it is only an order of rectifying the clerical errors in the earlier appointment order given in the year 1991. For the reasons best known to the respondents, the order dated 29.06.2006 is construed as a fresh appointment order for the petitioner who had already been appointed on 22.09.1991 and continued to be in service.

6. The impugned order has been passed by wrongly construing the import of the order dated 29.06.2006 and by considering the petitioner's initial date of appointment is subsequent to 01.04.2003. Since the petitioner joined the service as early as in the year 1991, it is not fair on the part of the respondents to consider his date of appointment is somewhere in the year 2006. It is reiterated that the order dated 29.06.2006



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was needed to be passed only because of his request to change the initial in the earlier appointment order and at no stretch of imagination the order dated 29.06.2006 is a fresh appointment order.

7. So far as the petitioner is concerned, the order dated 29.06.2006 only rectifies the clerical error in his initial and that is the reason why he did not challenge the same. But the respondents cannot deny their own order dated 22.09.1991 and hence the petitioner cannot be treated as a person who had joined in the service subsequent to 01.04.2003. In fact his appointment in the year 1991 itself is under regular work establishment cadre and in regular time scale of pay. Hence the impugned order is an illegal one and is liable to be set aside.

8. In view of the above stated reasons, this Writ Petition is allowed and impugned order in letter No.12549/Me.Po.Ni.Aa/Ni.bi - 2/00.4/2021 dated 04.01.2021 passed by the second respondent is quashed. The respondents are directed to re-consider the representation of the petitioner in the light of the above observations and also in the light of his initial appointment order dated 22.09.1991 in which the petitioner was



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appointed in the regular cadre and pass orders afresh by sanctioning the pensionary and retirement benefits to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs.

12.03.2024

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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To

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