



Writ Appeal No.2051 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
03.07.2024

PRONOUNCED ON
16.07.2024

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

Writ Appeal No.2051 of 2022

M.Sudhakar

... Appellant

Vs

1.The Chief Engineer/Personnel
Tamil Nadu Electricity Board,
NPKRR Maaligai,
8th Floor, No.144, Anna Salai,
Chennai – 600 002.

2.The Superintending Engineer,
Generation Circle/Kundah,
Kundah Bridge Post,
The Nilgiris – 643 219.

... Respondents

PRAYER:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 30.06.2022 made in W.P.No.14099 of 2015 and pass such further order.

For Appellant : Mr.M.Vijayakumar

For Respondents : Mr.Venkatesh Prasad A.P., for



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M/s.T.S.Gopalan & Co for RR1&2

JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Intra Court Appeal had been preferred by the unsuccessful Writ Petitioner wherein his challenge to the order dated 13.02.2015, made by the second respondent and the consequential direction to appoint him as Helper in Generation Circle Kundah has been negatived.

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

3. The learned counsel appearing for the appellant would contend that the appellant was engaged as a Contract Labourer and that he had served during the period from 02.05.1998 to 20.06.1999. In the mean time, the Board had issued BP No.22, dated 14.05.1999, to absorb the contract labourers in the sanctioned post at a time scale of pay. The appellant was not allowed to serve 480 days and that he was discharged on disciplinary



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grounds and thereafter no opportunity was granted to the appellant to prove his innocence or otherwise. The respondents had not even verified properly and they have not conducted any enquiry. He would submit that if he had been permitted to continue in service, he would have completed 480 days of regular service and would have been entitled to the benefits of the said BP. These aspects have not been considered by the learned Single Judge and the same had been rejected. Hence, he would seek interference of the order passed by the learned Single Judge and consider the case of the appellant on merits.

4. Countering his arguments, Mr.A.P.Venkatesh Prasad, the learned counsel appearing for the respondents would contend that as per BP No.22, whoever were on rolls as on the date of the BP and who have completed 480 days alone were eligible for being absorbed. Admittedly, the appellant was engaged in the services through a contractor only on 02.05.1998 and therefore, on the date of the BP i.e., on 14.05.1999, the appellant cannot be said to have completed 480 days. He would contend that even against the order of not continuing in service, the appellant had approached this Court



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only in the year 2014, i.e., after a period of 15 years seeking for a relief.

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This Court had not granted any positive direction, but had directed the respondents only to consider the representation of the appellant dated 16.11.2014. After due deliberation, an enquiry was conducted based upon the request of the appellant, the claim of the appellant had been negatived and thereafter, he had approached this Court in the year 2015 and the same had been negatived by the learned Single Judge by holding that he would not be entitled to the benefit of the BP, as he had not served for a period of 480 days. Hence, he would seek dismissal of the above the Intra Court Appeal.

5. We have considered the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

6. It is an admitted case that the appellant had been engaged as a Contract Labourer through a contractor on 02.05.1998 and his services had been discontinued w.e.f., 20.06.1999, on disciplinary grounds. The



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appellant had not challenged the said discharge and had only approached this Court in the year 2015, wherein his request had been earlier rejected, but considering the fact of the further representation, this Court without going into the merits of the earlier communication, had directed the respondents to consider the representation of the appellant dated 26.11.2014, afresh. A detailed order had also been passed by the second respondent rejecting the request of the appellant for absorption. Admittedly, as per BP No.22, the persons, who are daily wagers, were sought to be absorbed, if they had completed 480 days of work prior to the said BP. Since admittedly the appellant had been only engaged on 02.05.1998, and had been discharged on 20.06.1999, he would not have at any stretch of imagination completed 480 days of service. In that aspect, we are of the considered view that BP No.22, dated 14.05.1999, cannot be made applicable to the case of the appellant.

7. In fine, we do not find any infirmity or irregularity in the order passed by the learned Single Judge, which warrants interference of this Court and accordingly, the Writ Appeal is dismissed. However, there shall



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be no order as to costs.

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(D.K.K.,J.)

(K.B., J.)

16.07.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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D. KRISHNAKUMAR., J.
and
K.KUMARESH BABU.,J.

Pbn

To

- 1.The Chief Engineer/Personnel
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A Pre-delivery Judgment made in
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