



W.P.No.4378 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.4378 of 2021

S.Saravanan,

...Petitioner

Vs.

The Superintending Engineer,
Tirupattur Electricity Distribution Circle,
TAGEDCO,
Tirupattur, Vellore District,
PIN : 635 601

... 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 relating to the letter dated nil passed by the respondent, quash the same and consequently direct the respondent to give appointment as per Clause 5 of BP 9 dated 9.01.2008.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.G.Anandgopalan,
for M/s.T.S.Gopalan and Co.



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ORDER

The writ petition has been filed challenging the order dated Nil passed by the respondent to quash the same and to consider the case of the petitioner.

2.The case of the petitioner is that the petitioner was employed as a direct Contract Labour from 23.12.1995 and worked continuously without any break and completed 480 days of service in April 1997. He worked till 01.06.2003. Though, the petitioner worked continuously, he was not given regular appointment, hence he approached the authority for conferment of permanent status under conferment of permanent status Act, 1981, along with other workmen who also claimed permanent status through the union. The Authority vide order dated 16.05.2003, directed the respondent to give permanency on completion of 480 days from the date of engagement. When notice was sent to the respondent, the respondent denied employment to the petitioner from 2003. Eversince the petitioner was working under a Contractor. The Authority's order was challenged by the respondent in W.P.No.12286 of 2014. This Court by

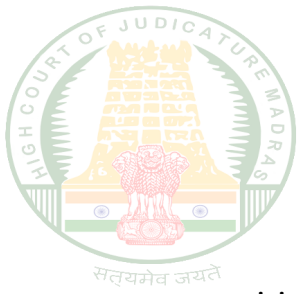


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an order dated 21.11.2019 directed the respondent to consider the petitioner's case, as per settlement dated 10.08.2007 and B.P.9 dated 09.01.2008 and pass orders on merits. Pursuant to the order of the Court in W.P.No.12286 of 2014, the respondent passed the impugned order, rejecting the petitioner's claim. Challenging the said rejection order, the petitioner has filed the above writ petition for the aforesaid relief.

3.The respondent filed a detailed counter tracing the entire history of the case and the formation of the Electricity Board. The respondent questioned the maintainability of the writ petition. On merits, the respondent submitted that though the petitioner obtained an order from the Inspector of Labour dated 16.05.2003, for conferment of permanent status, the same was challenged by the respondent before this Court in W.P.No.18866 of 2004. This Court, vide order dated 06.07.2004 dismissed the writ petition. The respondent, thereafter, filed W.A.No.178 of 2005 and Hon'ble Division Bench held that the claim of the petitioner needed to be considered in terms of the 12(3) Settlement dated 10.08.2007. Thereafter, the petitioner filed the computation



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petition under Section 33C (2) of Industrial Dispute Act and the same was numbered as C.P.No.80 of 2016. The Labour Court, Vellore by an order dated 29.04.2017, allowed the computation petition. Aggrieved by the said order, the respondent filed W.P.No.12286 of 2014 before this Court and this Court vide order dated 21.11.2019, directed the respondent to consider the representation of the petitioner. According to the respondent, as per direction of this Court the petitioner's claim was considered in terms of the order in B.P.No.9 dated 09.01.2008. The petitioner was found ineligible for absorption and therefore, the said claim was rejected by the respondent. Hence, the present writ petition.

4.Heard, learned counsel for the petitioner and learned counsel for the respondent and perused the materials available on record.

5.I am of the view that this Court under Article 226 cannot decide disputed questions of fact regarding continuous employment of the petitioner for the purpose of absorption. The question of fact is best left to be decided by the labour Court which is empowered to receive and examine evidence.



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6. In my view, the petitioner should be relegated to the Labour Court for the relief claimed by him. If any dispute is raised under 2(k) by the petitioner, before the Labour Court, the Labour Court shall pass orders on merits in accordance with law.

7. Accordingly, the writ petition stands disposed of. No costs.

19.02.2025

vsn

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

The Superintending Engineer,
Tirupattur Electricity Distribution Circle,
TAGEDCO,
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N.MALA,J.

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