



WEB COPY



W.P. No.24092 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.No.24092 of 2013

M.Selvadurai

... Petitioner

Vs.

1.The Deputy General Manager/HR/EB&ES
HR Department,
Corporate Office,
NLC Ltd., Neyveli.

2.The Chief Manager/HR/EB/NE
Corporate Office/HR Department
NLC Ltd., Neyveli.

3.The Manager
Corporate Office/HR Department,
NLC Ltd., Neyveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of certiorarified Mandamus calling for the records of the 3rd respondent proceedings Lr.No.CORP/HR/1529/A1-4/2012 dated 01.03.2012, 1st respondent proceedings in Lr.No.CORP/HR/1529/A1-4/2012 dated 11.12.2012 and the proceeding of the 2nd respondent in Lr.No.CORP/HR/EB/NE/1759/2013 dated 26.04.2013 and quash the same



W.P. No.24092 of 2013

and consequently direct the 1st respondent to regularise the petitioner's period of service between 11.04.1987 to 04.07.1996 and grant all the benefits.

WEB COPY

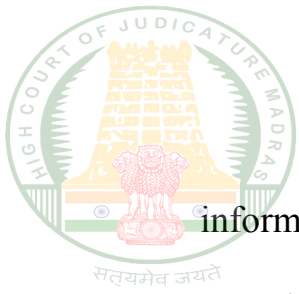
For Petitioner : Mr.V.Stalin

For R1 to R3 : Mr.B.Vijayalakshmi for
Mr.N.Nithianandam

ORDER

In this writ petition, the Petitioner has challenged the impugned orders dated 01.03.2012, 11.12.2012 and 26.04.2013 bearing Ref Lr.No.CORP/HR/1529/A1-4/2012, Lr.No.CORP/HR/1529/A1-4/2012 and Lr.No.CORP/HR/EB/NE/1759/2013 passed by the 3rd, 1st and 2nd Respondents respectively.

2. The Petitioner was originally appointed as an Office Assistant vide Appointment Letter dated 10.04.1987 bearing Lr.No.4922/C8/84 in the School run by the Neyveli Lignite Corporation (in short 'NLC'). The Appointment Letter dated 10.04.1987 categorically stated that the appointment was subject to approval of the Education Department. Meanwhile, the Petitioner was also promoted as 'Record Clerk' in the said School on 27.10.1988. Again at the time of promotion, the Petitioner was



informed that the promotion and appointment to the post of 'Record Clerk' was also subject to the approval of the Education Department.

3. It appears that attempts were also made by the 2nd Respondent School to regularize the services of the Petitioner, as also few others who were appointed in the year 1987 at the 2nd Respondent School. However, the Education Department did not approve the appointment of the Petitioner. Under these circumstances, the services of Petitioner from the 2nd Respondent School was terminated on 04.07.1996. Therefore, the Petitioner sent a representation for being absorbed into any other department of the Respondents.

4. Under these circumstances, the Petitioner was absorbed as an Attendant/Trainee vide Appointment Order dated 29.06.1996 as a fresh entrant in the service of the Neyveli Lignite Corporation (hereinafter referred to as 'NLC'), and the terms of the appointment made it clear that the services already rendered by the Petitioner in the past in NLC School will not be taken into account for any purpose in NLC. It was further affirmed that the



Petitioner would not claim for a higher fixation of pay or promotion; and that the pay would be drawn based on the experience and the post held by the Petitioner in the NLC; and that the Petitioner would have the service conditions/line of promotion etc, as per the rules and conditions of the NLC.

5. Relevant clause of the Appointment Order dated 29.06.1996 reads as under:

“17.His services put-in by him in the school,s prior to his appointment as Attendant/Trainee (Labour) in NLC will not be taken into account for any purpose in NLC i.e. For gratuity.

18. He will not have any claim for higher fixation of pay or promotion hased on his pay, etc. drawn by him and experience put-in by him in th post held by him in the schools, prior to his appointment as Attendant/Trainee in N.L.C.

19. He will have the service conditions/line of promotion, etc. as per the rules and conditions of the NLC.”

6. It is in this background, the Petitioner had sent two representations dated 26.11.2011 and 06.01.2012 to the 1st Respondent, requesting to count the services rendered by the Petitioner between 11.04.1987 to 04.07.1996 in NLC Schools, as an employee of the



Respondent, NLC and to regularize the service of the Petitioner accordingly.

It is in this background, the 3rd Respondent and 1st Respondent passed the impugned orders dated 01.03.2012 and 11.12.2012 respectively, which stood affirmed vide order dated 26.04.2013 of the 2nd Respondent.

7. The learned counsel for the Petitioner would submit that the Petitioner's right to receive gratuity was recognised by the controlling authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the Act') vide proceedings dated 11.04.2003 in G.A.No.82 of 2001. It is further submitted that the said decision was, however, reversed in P.G.A.No.254 of 2003 by the authority under the Act, the Regional Labour Commissioner (Central) Chennai vide Order dated 23.09.2005 which was reversed by this Court vide Order dated 07.02.2011 in W.P.No.3128 of 2006.

8. The learned counsel for the Petitioner would also draw the attention of the Court to the internal note purportedly signed by the Deputy General Manager/Education of the Respondents, wherein reference has been made to the payment of Gratuity and other benefits being conferred to one

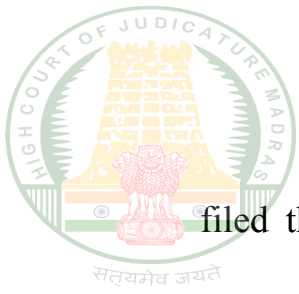


W.P. No.24092 of 2013

Nallammal who was appointed along with the Petitioner. It is stated that since other benefits were given to the legal heirs of the said Nallammal, who died on 15.09.1996, taking into account the previous services of the said Nallammal in the NLC school on the NLC pay scale, the Petitioner's services have to be regularized from 11.04.1987 to 04.07.1996 considering the service rendered by the Petitioner at NLC Schools.

9. The learned counsel for the Respondents, on the other hand, submits that the impugned orders do not merit any interference. It is submitted that the services rendered by the Petitioner in the NLC School from 11.04.1987 to 04.07.1996 was not continued due to the subsequent fresh appointment of the Petitioner as 'Attendant' at NLC pursuant to the Appointment order dated 29.06.1996.

10. The learned counsel for the Respondents would submit that so called note at page No.14 of the Typed Set of Documents was not maintained by the Respondent, and it is not clear how and on what basis the Petitioner



W.P. No.24092 of 2013

filed the aforesaid note. It is further submitted that the said note is also unsigned and has not been decided by the Respondent.

WEB COPY

11. Considered the arguments advanced by the learned counsel for the petitioner and learned counsel for the respondents and have also perused the materials placed before this Court.

12. The services rendered by the Petitioner in the NLC School and in the corporation are different from each other. Though, NLC Schools had attempted to regularize the service of the petitioner as a 'Record Clerk', who was initially appointed as an 'Office Assistant', the same was not approved by the Education Department as the Petitioner did not qualify. Therefore, the service of the Petitioner was terminated on 04.07.1996 by the 2nd Respondent School.

13. The appointment of the Petitioner subsequently as an 'Attendant' at the NLC vide Appointment Order dated 29.06.1996 was on humanitarian ground, in which the Respondents made it clear that the past service of the



W.P. No.24092 of 2013

petitioner in NLC Schools would not be reckoned for either fixation of pay or for continuity of service for promotion etc, and the relevant clauses have already been extracted above.

14. Therefore, the Petitioner does not have a favourable case for consideration of the services rendered by the Petitioner in NLC School, as the services rendered by the Petitioner with the Respondents' Corporation are independent services from that rendered by the Petitioner at NLC School. That apart, merely because the legal heirs of the one Nallammal were paid ex-gratia and a compassionate appointment was given, would not mean that the continuity of services of Petitioner from 11.04.1987 at NLC School can be reckoned. Therefore, this writ petition is liable to be dismissed.

15. Accordingly, this writ petition is dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

25.02.2025

Index : Yes/No
Speaking Order : Yes/No
dpa

Page No.8 of 10



W.P. No.24092 of 2013

WEB COPY

To:

- 1.The Deputy General Manager/HR/EB&ES
HR Department,
Corporate Office,
NLC Ltd., Neyveli.
- 2.The Chief Manager/HR/EB/NE
Corporate Office/HR Department
NLC Ltd., Neyveli.
- 3.The Manager
Corporate Office/HR Department,
NLC Ltd., Neyveli.



WEB COPY



W.P. No.24092 of 2013

C.SARAVANAN,J.

dpa

W.P.No.24092 of 2013

25.02.2025