IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

.THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.Nos.59, 57, 71, 99 & 108 of 2025

V.Balasubramanian	... Appellant in W.A.No.59/2025
M.Janakiraman	... Appellant in W.A.No.57/2025
P.Vairavel	... Appellant in W.A.No.71/2025
R.Kesavan	... Appellant in W.A.No.99/2025
V.Gandhi Raj	... Appellant in W.A.No.108/2025

Vs.

The Chief Internal Audit Officer,
Board Office, Audit Branch,
TNEB, KKR Maligai,
800 Anna Salai,
Chennai - 600 002. ... Respondent in all W.A.s

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 04.11.2022 passed in W.P.Nos.2181, 19590, 19591, 19584 and 2186 of 2019 and consequentially direct the respondent/ respondent to settle the lawful dues of the appellant/ petitioner.

For Appellants : Ms.K.R.Ananda Gomathy in all W.A.s

For Respondent : Mr.Anand Gopalan in all W.A.s

COMMON JUDGMENT

(Judgment of the Court was delivered by ***R.SUBRAMANIAN, J.***)

The rejection of the prayer for Mandamus sought for by the petitioners directing the respondent to settle their lawful dues as per the orders of this Court in Cont.P.No.967 of 2012 dated 26.07.2012 has triggered these appeals, at the instance of the five employees of the respondent Board.

2. These five employees were recruited as Junior Assistants in various Departments of the Board. While one of them Mr.Janakiraman was recruited on 09.08.1961, others were recruited in February and June 1971. The Board called for applications from eligible persons for appointment of Junior Auditors in the Audit Wing of the Board in the year 1979. These persons applied and they were selected and appointed as Junior Auditors of the Audit Wing of the Department, where they worked and also retired between the year 1994 and 1999.

3. After the orders were passed by a Division Bench of this Court in Cont.P.No.967 of 2012, seven years after passing of the orders, the petitioners sought for a Mandamus directing the same benefit to be extended to them also.

The writ Court found that the orders in Cont.P.No.967 of 2012 were passed in a totally different context, where the challenge was to the Board Proceedings viz., the Board Proceeding Ms.No.813 dated 21.04.1972, which provided for appointment of Superintendents and also the criteria for fixing seniority among Assistants in the Accounts Wing of the Board. That was essentially for the purposes of settling the anomaly that may arise due to absorption of employees, who were working under the erstwhile Madras Electricity System, which functioned as a Department of the Government, into the services of the Board.

4. All the petitioners joined the services of the Board as Junior Assistants. They were not employees of the Madras Electricity System. Upon publication of the Notification calling for appointment for the post of Junior Auditors in the Audit Department, which was formed on 01.10.1977, the petitioners applied and after undergoing the selection process, they were appointed as Junior Auditors in the year 1979. Now, the petitioners claim that they must be paid the benefits on par with those persons who had become the employees of the Board upon Madras Electricity System being taken over by the Board.

5. We are afraid such a concession cannot be extended to these petitioners. The writ Court had rejected the prayer for Mandamus on the ground that the Board proceeding Ms. No.813 dated 21.04.1972 did not relate to persons who were recruited to the Board and persons who were recruited by transfer to another post in the Board while working in the Board in some other post. The writ Court also rejected their claim on the ground of latches. The writ Court has pointed out that though the petitioners retired in 1994 and 1999 they have come to Court only in the year 2018 after a lapse of more than 12 years from the date of their respective retirements and after a lapse of 39 years from the date of their initial appointment as Junior Auditors.

6. Ms.K.R.Ananda Gomathy, learned counsel appearing for the appellants would vehemently contend that these petitioners also joined as Junior Assistants and they were transferred as Junior Auditors and therefore their services as Junior Assistants should also be counted for the purpose of seniority in the post of Junior Auditors in terms of the orders passed in the Contempt Petition.

7. Countering the above said argument, Mr.Anand Gopalan, learned counsel appearing for the Board would submit that the very Writ Petition is based on a mis-conception that BP No.813 would apply to the petitioners. He would submit that the writ Court was right in concluding that BP No.813 would not apply to the petitioners and it is only Rule 97(d), which would apply to the petitioners and according to Rule 97(d) the petitioners are not entitled to the relief they seek.

8. It has been time and again pointed out that a person's seniority in a particular post can be counted only from the date on which he is borne into that service in that post, it can't be from the date anterior to it. The Hon'ble Supreme Court in ***K. Meghachandra Singh and others vs. Ningam Siro and others*** reported in ***2020 (5) SCC 689*** has made this position very clear. Admittedly, the petitioners were borne in service as Junior Auditors only in 1979. Therefore, they would be entitled to seniority in that service only from 1979.

9. Mr.Anand Gopalan, learned counsel appearing for the Board would concede that their services as junior assistants have been counted for pension and other terminal benefits. Therefore, we do not find any reason for issuance of Mandamus as prayed for and we find that the writ Court was right in rejecting their claim.

10. Hence, the Writ Appeals fail and are accordingly **dismissed**. No costs.

(R.S.M.,J.) **(G.A.M.,J.)**

25.02.2025

dsa

Index : No

Neutral Citation : No

Speaking order

To

The Chief Internal Audit Officer,
Board Office, Audit Branch,
TNEB, KKR Maligai,
800 Anna Salai,
Chennai - 600 002.

R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

dsa

W.A.Nos.59, 57, 71, 99 & 108 of 2025

25.02.2025