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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.14886 of 2022

K.Duraisamy – Line Inspector

... Petitioner

Vs

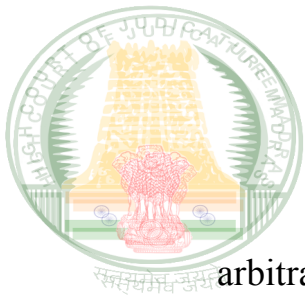
1.Tamil Nadu Generation and Distribution Corporation
Rep. By its Chairman cum Managing Director
No.144, Anna Salai
Chennai – 600 002.

2.The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation
Rep. By its Chairman
No.144, Anna Salai
Chennai – 600 002.

3.The Superintending Engineer
Kallakurichi Electricity Distribution Circle
Tamil Nadu Generation and Distribution Corporation
JDC, Kallakurichi 606 202.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the concerned records from the 3rd respondent, quash the order of the 3rd respondent dated 29.05.2020 bearing Lr.No.352/48/SF/KEDC/KKI/ADM.2/A.2/F.TCL/NMR/2020 as illegal,



arbitrary and contrary to law and consequently direct the respondents to take into account of the 50% of the service rendered by the petitioner as temporary casual labourer/nominal muster roll for the purpose of calculating pension and on that basis pay pension.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.,

ORDER

This petition has been filed by the petitioner to quash the order of the 3rd respondent bearing Lt.No. 352/48/SF/KEDC/KKI/ADM.2/A.2/F.TCL/NMR/2020 dated 29.05.2020 as illegal, arbitrary and contrary to law and consequently direct the respondents to take into account of the 50% of the service rendered by the petitioner as temporary casual labourer/nominal muster roll for the purpose of calculating pension and on that basis pay pension.

2. Today, when the matter is taken up for hearing, the learned counsel for the respondents submitted that the matter has been covered by a batch of Writ Petitions in W.P.Nos.27020 of 2022, etc. This petition was also tagged along with those matters, but mistakenly it was omitted, and



now it is listed before this Court. The connected matters were dismissed by this Court through an order dated 01.03.2024.

3. The learned counsel appearing for the petitioner also did not dispute the above said representation of the learned counsel appearing for the respondent, that this matters is covered by the judgment of this Court.

4. This Court also perused the order passed by this Court in W.P.Nos.27020 of 2022 batch cases dated 01.03.2024 and the matter is covered by the judgement of the Hon'ble Division Bench of this Court rendered in the case of **The Superintending Engineer, Tuticorin Thermal Power Station Vs. Pondurai** in **WA(MD).No.785 of 2015**, wherein, it is held as follows:

5. We would have accepted such plea but for Rule 11 of the Tamil Nadu Pension Rules, 1978, which states that the date of commencement of qualifying service for the purpose of pension should be the date in which he takes charge in the first appointment either substantively or in an officiating or temporary capacity in the concerned department. While serving through the INDCOSERVE Society, it can never be said that the respondent/writ petitioner was in a qualifying service



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(i.e.,) either substantively or in an officiating or in temporary capacity on the rolls of the appellants Board.

6. At best, the respondent was one among many members of the Society, working on contract basis with the appellants Board, which was abolished by G.O.Ms.No.950, Labour and Employment Department, dated 08.08.1990. Therefore, the Government Order makes it clear that there is demarcation consequent to G.O.Ms.No.950, Labour and Employment Department, dated 08.08.1990. Prior to that, the respondent and all other members of INDCOSERVE were Contract Labourers and not appointed either substantively or in an officiating or temporary capacity of the appellants Board in a qualifying service. On issuance of the said Government Order, pursuant to absorption on 01.05.1999, the respondent became an employee of the appellants Board. If that fact is clear and undisputed, the commencement of qualifying service would be reckoned from 01.05.1999 and not before that. Service as a member of the Society (INDCOSERVE), a contract which came to be abolished, can never be a qualifying service. In such view of the matter, as per Rule 11 of the Tamil Nadu Pension Rules, 1978, the respondent is ineligible for pension unless and until he puts in the qualifying years of service as required under Rule 43(2) of the Tamil Nadu



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Pension Rules, 1978. G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 or the Board's Proceedings, as has been prescribed earlier would be applicable only in respect of services viz., Nominal Muster Roll or Temporary Casual Labourer in the service of the Board and not for the members of a Society.

7. We find no reason to accept G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 or the Board's Proceedings could be extended to Contract Labourers, unless the Government or the Board specifically takes a conscious decision to extend the benefit to the members of the Society, who had put in long years of service as Contract Labourers and were subsequently, absorbed. We would, however, like to express our concern that the Government and the Board should consider and issue appropriate Government Orders similar to that of G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, to consider the plight of large number of employees, who had put in long years of service for the benefit of the Board even as Contract Labourers through the Society or otherwise.
<https://hcservices.ecourts.gov.in/hcservices/>

8. Insofar as the present case is concerned, we find that neither G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 nor the Board's Proceedings No.31, dated 08.09.2011, would come to the



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benefit of the respondent/writ petitioner and in terms of Rule 11 of the Tamil Nadu Pension Rules, 1978, which clearly provides that the commencement of qualifying service of a Government servant will be the date on which he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity. In the case on hand, appointment has not been made in respect of the present respondent/writ petitioner till 01.05.1999. He is not entitled to seek inclusion of the period of service as member of society for the purpose of pensionary benefits in the absence of rule or otherwise.

9. On an allegation of arbitrariness and unfair treatment, we called upon Mr.Karthick, learned counsel for the appellants to produce the records and justify that in all cases where the absorbed employees fell short of qualifying service they have been uniformly treated by declining the grant of pension. In order to dispel this plea and to prove that there is no arbitrariness or unfair treatment to one or other person, more particularly the respondent, Mr.Karthick, learned counsel for the appellants produced the details of all the employees who were absorbed on 1.5.1999 and who had qualifying service between 2 to 9 years and were not extended the said benefit. Accordingly, we hold that the order of the learned Single Judge directing appellants to consider the period of service as member of the Society for pensionary



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benefits is erroneous.

10. In the result, the writ appeal is allowed and the impugned order is set aside. The respondent/writ petitioner will be entitled to make a representation to the Board in the light of what we have indicated earlier to consider his plea and similarly placed persons for grant of pensionary benefits de hors the government order and board proceedings, as above. No costs. Consequently, connected miscellaneous petition is closed.

19. In view of the above, this Court finds no infirmity or illegality in the order passed by the third respondent. Further the action of the third respondent for non considering the 50% of the petitioners' service as Contract Labourer cannot be declared as illegal. That apart, all the petitioners are receiving pension since they were absorbed in the regular service prior to 01.04.2003. Therefore, all the writ petitions are devoid of merits and liable to be dismissed. Accordingly, all the writ petitions are dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs."

5. Since the issue involved in this writ petition is also covered under the above said judgment and the similar issue has already been decided by



this Court in W.P.No.27020 of 2022 etc, batch of cases, on the same lines,
this Petition has to be dismissed.

6. In view of the above said judgment, this petition has no merits and deserves to be dismissed. Accordingly, this writ petition is dismissed. No costs.

19.06.2025

drl

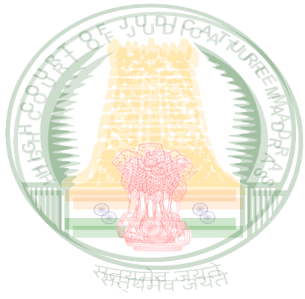
Speaking/Non Speaking

Index : Yes / No

Internet : Yes / No

To

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P.DHANABAL, J.,

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