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W.P.No.16642 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.16642 of 2022

M.Subramanian

... Petitioner

-VS-

1.The Chairman,
Tamilnadu Electricity Generation,
and Distribution Corporation,
Anna Salai,
Chennai.

2.The Chief Engineer/Personnel,
Tamilnadu Electricity Generation,
and Distribution Corporation,
Administrative Branch,
No.144, Anna Salai,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent herein in his proceedings in Letter No. 016738/ G.58/ G.581/ 2013-8 dated 21.05.2022 and quash the same and thereby direct the respondents to confer notional seniority for the petitioner from 2.1.2001 being the date on which the Deputy Chief Inspector of Factories conferred permanent status for the petitioner and thereby grant all consequential monetary and other benefits to the petitioner.



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For petitioner : Mr.N.Suresh
For respondents : Mr.A.P.Venkatesh Prasad,
for M/s.T.S.Gopalan and Co.

ORDER

This writ petition is filed by the petitioner seeking to quash the proceedings in Letter No. 016738/ G.58/ G.581/ 2013-8 dated 21.05.2022, passed by the 2nd respondent and to direct the respondents to confer notional seniority for the petitioner from 02.01.2001 being the date on which the Deputy Chief Inspector of Factories conferred permanent status for the petitioner and thereby, grant all consequential monetary and other benefits to him.

2.The facts which have given rise to the filing of this petition are briefly set out hereinbelow.

2.1.It is the case of the petitioner that in the month of April 1996, he had been appointed as a contract labourer in the 2nd respondent Board. All of a sudden, in the year 1999, the petitioner was illegally terminated from service. Thereafter, the petitioner had



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approached the Competent Authority under the Tamilnadu Industrial Establishments (Conferment of Permanent Status) Act, 1981, viz., the Deputy Chief Inspector of Factories, Tirunelveli, to confer permanent status to him. After contesting, a detailed order dated 02.01.2011, came to be passed confirming the permanent status upon the petitioner. This order was challenged unsuccessfully by the Board in W.P.No.11073 of 2002 and W.A.No.4088 of 2004. The writ petition was dismissed on 14.10.2003 and the writ appeal was dismissed on 09.09.2005. Thereafter, the petitioner was restored to service as a helper in the Tuticorin Thermal Power Station on 30.11.2005.

2.2.The petitioner would submit that the respondents Board had deliberately delayed his appointment. The petitioner would submit that if he had conferred with the permanent status on the date of the order of the original authority, he would have got all the benefits including backwages. Thereafter, on 30.11.2013, the petitioner superannuated from service. Once again, the respondents



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Board deliberately delayed disbursement of his pensionary benefits which included gratuity, pension, GPF, DCRG, etc.

2.3.The petitioner was once again, constrained to approach this Court in W.P.No.35057 of 2013 seeking for a direction to the respondents to pay all the retirement benefits to him. By an order dated 11.03.2014, the writ petition was allowed and the respondents was directed to disburse the benefits from 02.01.2001 itself. This was challenged by the respondent board in W.A.No.912 of 2014. This writ appeal was dismissed on 13.07.2015. As against the same, the respondents once again preferred a review petition in Rev.A.No.132 of 2017.

2.4.The petitioner had also filed a writ petition in W.P.No.11417 of 2007 claiming benefits for the period from 03.11.1999 to 30.11.2005 which is the period on which he was terminated from service and re-instated. This writ petition was dismissed with an observation that the petitioner had not taken any



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steps to challenge the termination order dated 03.11.1999 and therefore, he was not entitled to any backwages as he was neither working during the period nor had he challenged the termination in the manner known to law. The petitioner had unsuccessfully challenged the same before the Hon'ble Supreme Court of India. Therefore, after the dismissal of W.A.No.912 of 2014, the respondent board had filed a Rev.A.No.132 of 2017 on the ground that these orders have not been brought to the notice of the Court.

2.5.Subsequently, the petitioner was given the benefits. Since the petitioner was not given the notional seniority, he had made a representation dated 16.06.2012, to the respondents to consider the same. However, there was no response to the request. Therefore, the writ petitioner was once again constrained to approach this Court by filing a writ petition in W.P.No.17797 of 2012 for a mandamus to the respondents to consider the said representation. By an order dated 02.02.2022, this Court had directed the 2nd respondent to consider the said representation and pass orders.



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2.6.Further, by an impugned order dated 21.05.2022, the petitioner was denied the seniority. The denial was on the ground that in terms of Regulation 97(d) of Tamilnadu Electricity Board Service Regulations, any issue regarding the seniority ought to have been raised within a period of 3 years from the date of appointment to such service, class, category or grade or within a period of three years from the date of order of fixing the seniority and since the request was made much beyond the period of 3 years, the request cannot be considered. The respondents further quoted the pendency of the Rev.A.No.132 of 2014 to deny the said request. Aggrieved by the said order, the petitioner is before this Court.

3.Heard the learned counsel on either side and perused the materials available on record.

4.Admittedly, the petitioner had been conferred with permanent status on 02.01.2001. However, the respondents chose to



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challenge the said orders and ultimately, it was only on 30.11.2005

that orders granting the petitioner permanent status had been issued.

The period from 02.01.2001 to 30.11.2005 had been spend by the respondents in contesting the order, as a result of which, the petitioner could not either get the order implemented or be permitted to work. W.A.No.4088 of 2004 was an appeal arising out of the writ petition filed by the board challenging the order dated 02.01.2001. W.A.No.912 of 2014 was filed challenging the order dated 11.03.2014 in W.P.No.35057 of 2013 which was filed by the petitioner seeking to disburse the retirement benefits.

5.The Hon'ble Division Bench of this Court in the judgment dated 13.07.2015 has observed as follows:

“11.Indisputably, the petitioner was granted permanent status with effect from 2nd January, 2001. The intervening period, when he was out of job on account of either termination or by any other service disability, cannot take away the right of the petitioner for entitlement of pensionary benefit, if he is otherwise eligible under the scheme. The grant of pension, gratuity, DPF, DCRG depends on salary payment made to the petitioner. Thus, the appellants are directed



to compute the retiral benefits of the respondent herein under different heads, which he is entitled to keeping in view the permanent status granted to the petitioner as on 2nd January, 2001.”

6. Therefore, the Hon’ble Division Bench of this Court clearly observed that the petitioner was entitled to the pensionary benefits from the date on which he has been granted the permanent status ie., from 02.01.2001. It is needless to state that had the respondents not challenged the order dated 02.01.2001, the petitioner would have been entitled to the benefits from 02.01.2001. However, the respondents chose to challenge the said order and therefore, the orders of the Competent Authority under the Tamilnadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act was given effect only on 30.11.2005.

7. The Hon’ble Division Bench of this Court in its judgment in W.A.No.912 of 2014 had also observed that the intervening period when the petitioner was out of job will not take away the rights of the petitioner to his pensionary benefits. The same analogy has to be



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applied in the case of conferring his notional seniority as well.

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Therefore, applying the dicta of the Hon'ble Division Bench of this Court in W.A.No.912 of 2014 *“intervening period, when he was out of job on account of termination or by any other service disciplinary action, cannot take away the right for his entitlement to the retirement benefits”*, this writ petition is allowed as prayed for.

No costs.

15.12.2025

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
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P.T.ASHA, J.,

To

ssa

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