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Rev.Appl.Nos.311 to 318/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Rev.Appl.Nos.311 to 318 & 324/2024

&

CMP.Nos.25638, 25640, 25639, 25641, 25642, 25644, 25645 & 26053/2024
in Rev.Appl.Nos.311 to 317 & 324/2024

1.The Chief Engineer [Personnel]
Tamil Nadu Electricity Board
TANGEDCO, 800, Anna Salai
Chennai 600 002.

2.The Chief Engineer
North Chennai Thermal Power Station – I
Chennai 600 120.

3.The Superintending Engineer
[Purchase & Administration]
North Chennai Thermal Power Station – I
Chennai 600 120.

.. Review
Applicants in all the applications

Versus

1.R.Selvaraj

..

Respondent in



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2.G.Balu

.. Respondent in
Rev.Appl.No.312/2024

3.E.Subramani

.. Respondent in
Rev.Appl.No.313/2024

4.J.Yuvaraj

..

Respondent in
Rev.Appl.No.314/2024

5.R.Santhanam

.. Respondent in
Rev.Appl.No.315/2024

6.T.M.Srinivasan

.. Respondent in
Rev.Appl.No.316/2024

7.S.Sekar

..

Respondent in
Rev.Appl.No.317/2024

8.L.Chandran

.. Respondent in
Rev.Appl.No.318/2024

9.P.Dakshinamoorthy

.. Respondent
in Rev.Appl.No.324/2024

Common Prayer:- Review application filed under Order 47 Rules 1 and 2 read with 114 of CPC to review the order dated 06.10.2021 in WA.Nos.2075, 2082, 2073, 2076, 2077, 2074, 2072 and 2081/2021.

For Petitioners in



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all petitions : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co.

For Respondents in
all petitions : Mr.S.N.Ravichandran

COMMON ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1)The present review applications are filed by the appellants in the above writ appeals to review the common order dated 06.10.2021 in WA.Nos.2075, 2082, 2073, 2076, 2077, 2074, 2072 and 2081/2021.
- (2)In all the review applications, the common order dated 06.10.2021 is sought to be reviewed.
- (3)In all the review applications, facts and issues are similar.
- (4)The respondents in all these review applications along with one Mr.R.Thanikachalam, filed writ petitions in WP.Nos.36574 to 36580/2004 to quash the proceedings of the Chief Engineer, Tamil Nadu Electricity Board, 1st respondent herein, dated 27.11.2004, confirming the order of the Chief Engineer, North Chennai Thermal Power Station, 2nd respondent herein dated 19.07.2004 and to direct the applicants herein to absorb the respondents herein as regular Helpers with effect from



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27.10.1999 with all monetary and consequential benefits.

(5)The said writ petitions were originally allowed by the learned Single Judge vide order dated 23.11.2009, declaring the writ petitioners/respondents herein as persons who are deemed to have been appointed as Helpers under the Board with effect from 27.10.1999, following the order of Division Bench of this Court, sitting in Madurai and another order in WP.No.7509/2002. However, instead of 27.10.1999 in the operative portion, the dated 27.10.2009 was wrongly mentioned.

(6)However, a representation was made before the learned Single Judge by the writ petitioners subsequently and the learned Single Judge passed the following order on 30.08.2018:-

"4.Taking into consideration the fact that the writ petition was allowed by this Court based on the judgment in Writ Appeal [MD].No.6 of 2009 and similarly placed persons having obtained pensionary benefits, the respondents shall grant pensionary, continuity of service to the petitioners as well, deeming their date of appointment as 27.10.1999. The order passed today by this Court shall be implemented within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the petitioners would be entitled to pensionary benefits and continuity of service alone."

(7)Challenging the order dated 30.08.2014, writ appeals were preferred and



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the Division Bench, while holding that the entire period of service rendered by the respondents herein from 27.10.1999 will have to be taken into account for the purpose of counting continuity of service and eligibility of pension, it was held that the said period has to be ignored by the Board while arriving at the calculation for extending terminal benefits alone, as the employees were not in employment during the period of twelve years from 1999 to 2011. It is this order that is sought to be reviewed in the above review applications. However, it is also observed that for the purpose of granting gratuity, the said period of 12 years will have to be taken into account.

(8)The fact that respondents herein are not in service for a long period is not in issue. It is admitted that the applicant/Board only gives Death-cum-Retirement Gratuity [DCRG] and not Gratuity as in the case of other employees of Government.

(9)This Court, while examining the original order passed in the writ petitions and the subsequent order passed by way of clarification, is unable to find a reason or cause for treating the period during which the respondents



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were not in employment as a period in service for the purpose of granting gratuity. The contention of the learned counsel for the respondents is that all the previous orders, namely, the original order passed in the writ petitions and the subsequent order clarifying the original order of the learned Single Judge in the writ petitions and the judgment passed by the Division Bench specifically deal with the issue and therefore, the order of previous Bench cannot be reviewed. The said submission is factually incorrect as seen from the orders.

(10) Even though a review is not entertainable unless there is an error apparent on the face of the record and the scope of review is very limited, the order passed by the Division Bench appears to be by mistake. Absolutely there is no discussion as to how the employees are entitled to Gratuity and how DCRG is payable even for the period during which the employees were not in service. The non-employment is not due to any mistake of the appellants. Having regard to the admitted facts, this Court finds that the impugned order suffers from total non application of mind. Had the decision been taken consciously after recording the submissions of both sides, this Court would not have entertained the review



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applications. However, in the peculiar facts and circumstances, this Court finds that the judgment of the Division Bench is liable to be reviewed.

(11) Hence, these review applications are **partly allowed**. The review is confined only to the direction of the Division Bench dated 06.10.2021 in WA.Nos.2075, 2082, 2073, 2076, 2077, 2074, 2072 and 2081/2021 regarding disbursement of Gratuity. This Court is not interfering with any other directions issued in the said batch of writ petitions. No costs. Consequently, connected miscellaneous petitions are closed.

[SSSRJ] [AANJ]
09.01.2025

AP
Internet: Yes



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A.A.NAKKIRAN, J.,

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