



W.P. No. 22445 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 22445 of 2019

K.T.Kumaravel

... Petitioner

-VS-

1. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai, Chennai-2.

2. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai, Chennai-2.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with impugned order passed by the second respondent vide Memo No.011269/155/G15/G152/2016-1 dated 11.07.2016, and quash the same directing the respondents to count the earlier service of the petitioner rendered in Valivalam Desigar Polytechnic (Government Aided) as Associates Lecturer from 19.12.1984 to 07.12.1988 for the purpose of pensionary benfits in the light of Board Proceedings in B.P.(FB) No.56, Secretariat Branch, dated 12.10.1992 dated B.P. (Ch) No.209, dated 18.10.2008.



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For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.Rajkumar, SC (TNEB)

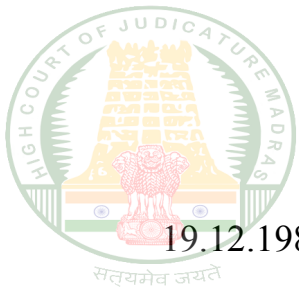
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ORDER

This writ petition has been filed to call for the records pertaining to Memo No.011269/155/G15/G152/2016-1 dated 11.07.2016 issued by the second respondent and quash the same and to consequently direct the respondents to count the earlier service of the petitioner rendered in Valivalam Desigar Polytechnic (Government Aided) as Associates Lecturer from 19.12.1984 to 07.12.1988 for the purpose of pensionary benefits in the light of Board Proceedings in B.P.(FB) No.56, Secretariat Branch, dated 12.10.1992 dated B.P. (Ch) No.209, dated 18.10.2008.

2. Heard Mr.S.N.Ravichandran, learned counsel for the petitioner and Mr.K.Rajkumar, learned Standing Counsel for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner joined the service as Instructor in a Government Aided Polytechnic, viz., Valivalam Desigar Polytechnic (Government Aided) as Associate Lecturer on 19.12.1984. He was promoted as Associate Lecturer on



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19.12.1987 and he was paid with UGC scale of pay. Thereafter, the petitioner

WEB applied to the post of Assistant Engineer by direct recruitment and appointed as an Assistant Engineer in Tamil Nadu Electricity Board on 08.12.1988. He resigned from the services of the Valivalam Desigar Polytechnic College on 07.12.1988 and after duly relieved from service, he joined in the respondent Board service on 08.12.1988 without any break in service. He retired from service on attaining the age of superannuation on 31.07.2019. The petitioner has given representation to the respondent to consider his past services rendered in the Government Aided Polytechnic for the purpose of pensionary benefits, but the same was rejected on the observation that the benefit can be given to the petitioner only if he had already obtained NOC from the earlier institution and applied for the present post. Hence, the petitioner has filed this writ petition.

4. The learned counsel for the petitioner submitted that as per the judgment passed in W.A. No. 734 of 2010, the past services of the petitioner can be included for pensionary benefits. In the above said order, it is held that persons who have applied to the new post through the former employee can be construed as proper promotion under Rule 23 of Tamil Nadu Pension Rules.



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WEB 5.0 For the sake of clarity, Rule 23 of the Tamil Nadu Pension Rules is extracted hereunder:-

“23. Forfeiture of service on resignation.

-(1) Resignation from a service or post entails forfeiture of past service:

Provided that a resignation shall not entail forfeiture of past service if it has been submitted to take up with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

(2) Interruption in service in a case falling under the proviso to sub-rule (1) due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to the Government servant.”

6. In the instant case, the petitioner had obtained No Objection Certificate from his earlier employer and in fact, his application itself is forwarded to the Tamil Nadu Electricity Board through Board Panel with the No Objection Certificate. But the second respondent without taking into consideration of



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those documents, has stated that the petitioner did not obtain any permission. In

fact, the petitioner has been relieved from the services with his earlier employer from 07.12.1988 by obtaining the order to that effect dated 07.12.1988. The above document would show that the petitioner has chosen to apply to the present post only through proper channel and after issuing No Objection Certificate and sending application through the proper channel. Subsequently, he was relieved from the earlier employer in order to enable him to join in the new service. This would only amount to grant of permission within the meaning of the proper permission mentioned in Rule 23 of the Pension Rules. The second respondent has not chosen to appreciate the validity of the No Objection Certificate in the context of the letter and spirit of the Rules.

7. To be noted that the petitioner has joined on the next day i.e., 08.12.1988 itself without any break in service. Since the petitioner has assumed charge in the new employment only after complying the condition contemplated under proviso to Rule 23 of the Pension Rules, he is entitled to the benefit of pensionary benefit for including his past services. Hence, I feel that the order is liable to be set aside.



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WEB 8. COPY In view of the above stated reasons, this writ petition is allowed and the Memo No.011269/155/G15/G152/2016-1 dated 11.07.2016 issued by the second respondent is set aside and the respondents are directed to count the earlier service of the petitioner rendered in Valivalam Desigar Polytechnic (Government Aided) as Associates Lecturer from 19.12.1984 to 07.12.1988 for the purpose of pensionary benefits in the light of Board Proceedings in B.P.(FB) No.56, Secretariat Branch, dated 12.10.1992 dated B.P. (Ch) No.209, dated 18.10.2008 within four weeks from the date of receipt of the copy of the order. No costs.

06.03.2025

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

1. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai, Chennai-2.
2. The Chief Engineer (Personnel)
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R.N.MANJULA, J.

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