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W.A No. 673 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-04-2025

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A No. 673 of 2023

and C.M.P.No.6741 of 2023

S.Paulsamy

S/o Shanmugavel, No.3/54-B2

Ramachandrapuram, Aanivur Post

West Sivakasi, Virudhunagar District -626 124.

... Appellant

Vs

1. The Chief Engineer / Personnel

Tamil Nadu Generation and Distribution Corporation
Limited (Administrative Branch), 8th Floor
N.P.K.R.R.Maalgai, 144, Anna Salai
Chennai 600 002.

2.Superintending Engineer

Tamil Nadu Electricity Board
Kadamparai Circle, Minparai Adakatti
Aazhiar Nagar Post, Valparai Taluk
Coimbatore – 642 101.

3.Assistant Executive Engineer

Electrical Maintenance
Tamil Nadu Electricity Board
Kadamparai Power House
Coimbatore – 642 101.

... Respondents



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PRAYER
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Writ Appeal under Clause 15 of the Letters Patent to set aside the order dated 10.10.2022 passed in W.P.No.32104 of 2019 and consequently directing the respondents to grant the petitioner's pension and other pensionary benefits by counting the temporary service rendered by him with all consequential benefits with interest.

For Appellant : Mrs.S.Meenakshi

For Respondents : Mr.David Sundar Singh
Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal has been filed against the order passed by the learned Writ Court dated 10.10.2022 passed in W.P.No.32104 of 2019.

2. The appellant/petitioner was initially engaged in the year 1984 as a contract employee of the respondent TANGEDCO and continued upto the year 2000. Thereafter, the petitioner was discharged from service. He rejoined as daily wage employee and served till the year 2004. Thereafter, the petitioner was appointed as a Helper on regular basis. After completing ten years of regular service, the



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petitioner was allowed to retire from service on 30.06.2015 as Fitter Grade II on attaining the age of superannuation.

3. Since the TANGEDCO had taken the services of the petitioner/appellant only from 01.01.2004 till 30.06.2015, pensionary benefits had been denied to him. Therefore, in order to calculate the pensionary benefits by including his service as contract employee right from 1984 and to accordingly calculate the pension, the appellant/petitioner had approached the writ Court seeking for a writ of Mandamus, which was dismissed by the learned Writ Court through the impugned order dated 10.10.2022.

4. The facts are admitted one, as the petitioner/appellant entered into service in the year 1984, of course as a contract employee and had been continuously working till the year 2000. Thereafter, some artificial break seems to have been taken by virtue of the ousting of the employees by the respondent TANGEDCO between 2000 and 2004. Thereafter, from 01.04.2004 his services has been regularised as regular employee and till his superannuation date 30.06.2015, he was



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working. His last service was Fitter Grade-II. Therefore, the long service rendered

by the appellant right from 1984 till 2015 except the artificial break between 2000

and 2004 cannot be ignored. This position, though had been projected before

the Writ Court, at the admission stage it seems the writ petition has been disposed

of by following the decision of a Division Bench in W.A.(MD) No.785 of 2015 dated

28.10.2015.

5. We have gone through the order, which is impugned herein and the relevant portion of the Division Bench judgment which has been extracted by the learned Judge in the impugned order.

6. Insofar as the case of the appellant/petitioner is concerned, it is an admitted fact that from 1984 to 2000 he had been continuously working as employee, of course as a contract employee. Therefore, it is continuous service rendered by the appellant to the benefit of the respondent TANGEDCO and this factor cannot be denied by TANGEDCO. Merely because some artificial break has been made between 2000 and 2004, the entire service rendered by the appellant /



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petitioner cannot be simply brushed aside without considering the service for the

purpose of pensionary service. It is settled legal proposition that if any provisional service, consolidated service or daily rated service is rendered by any employee for long years such as more than 10 years, at least 50% of such service shall be taken into account for the purpose of pensionary benefits. This position has been reiterated in many number of judgments of this Court.

7. In fact, in this regard the Tamil Nadu Government has issued a Government Order in G.O.No.22, Personnel and Administrative Reforms, whereby such a benefit of inclusion of long years of service on temporary basis or casual basis into consideration for calculating the period for pensionary service has been provided.

8. When that being the position, TANGEDCO being the Government concern, must be a model employer and this kind of long service rendered by any employee for more than a decade or decades together cannot be simply ignored from taking it for the purpose of pensionary benefits. Therefore, we are not in agreement with the view expressed by the learned Judge through the impugned order. We feel that at



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least 50% of the past service rendered by the appellant can be taken for the

purpose of pensionary benefits. In the result, the following orders are passed in this

Writ Appeal.

(a) The impugned order dated 10.10.2022 made in

W.P.No.32104 of 2019 is set aside.

(b) As a sequel, there shall be a direction to the respondents to

treat 50% of the past service rendered by the

petitioner/appellant right from 1984 till 30.12.2003, except

the time where there has been a break in service for the

purpose of continuous service along with the service

rendered by the petitioner from 01.01.2004 to 30.06.2015.

(c) Accordingly, he shall be placed in the eligibility list of

employees getting pension and pensionary benefits shall be

calculated and be paid to the petitioner/appellant within a

period of two months from the date of receipt of a copy of

this order.



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9. With the above directions, this Writ Appeal is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

(R.SURESH KUMAR, J.) (A.D.MARIA CLETE, J.)
02-04-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

KST

To

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