(2007) 11 MAD CK 0029

In the Madras High Court

Case No : W.A. No''s. 2367 and 2368 of 2000

The Superintending Engineer	APPELLANT
Vs	
The Presiding Officer, Labour Court, T. Devappan and J. Albert John	RESPONDENT

Date of Decision : 13-11-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)
Tamil Nadu Electricity Board Contributory Provident Fund Regulations — Regulation 37

Citation : (2007) 11 MAD CK 0029

Hon'ble Judges : S.J. Mukhopadhaya, J;M. Venugopal, J

Bench : Division Bench

Advocate : V. Yamuna Devi, for the Appellant; P. Jagadeesan, for Respondent-2 in W.A. No. 2367 of 2000, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—As both the Writ Appeals have been preferred by the same appellant-Superintending Engineer, Mettur Electricity

Distribution Circle, Tamil Nadu Electricity Board, Mettur Dam (hereinafter referred to as ''the Electricity Board'') against the common order dated

26.7.1999 in W.P. Nos. 12118 and 12119 of 1999, they are heard together and disposed of by this common judgment.

2. It appears that the contesting respondents (second respondent-workmen) retired from the services of the Electricity Board on 30.6.1992 (Thiru.

D. Devappan in W.A. No. 2367 of 2000) and on 30.6.1994 (Thiru. J. Albert John in W.A. No. 2368 of 2000). After their retirement, they were

paid the following retirement benefits:

(i) Monthly pension;

(ii) Commutation of pension;

(iii) General Provident Fund;

(iv) Death-cum-Retirement Gratuity;

(v) Benefit under the Tamil Nadu Electricity Board Family Benefits Fund Rules, 1974;

(vi) Benefit under the Tamil Nadu Electricity Board Family Benefits Fund Subsidiary Scheme, 1986 and

(vii) Benefit under the Tamil Nadu Electricity Board Special Provident Fund-cum-Gratuity Scheme.

3. After receiving the entire retirement benefits, the second respondent-workmen (in both the Writ Appeals), have preferred respective Claim

Petitions u/s 33C(2) of the Industrial Disputes Act, before the Labour Court, Salem praying for commutation of money value of the benefits of

Special Contribution they have made towards the Provident Fund. Such a prayer was made on the ground that they have put in more than 30

years of service and as per Regulation 37 of the Tamil Nadu Electricity Board Contributory Provident Fund Regulations, they are entitled to

Special Contribution at the rate of 15 days of salary per year of service. Similar claims were made by some other employees of the Electricity

Board. Some of such cases having been allowed by the Labour Court, the Superintending Engineer of the Electricity Board preferred different

Writ Petitions. The present two Writ Petitions along with two other Writ Petitions which are preferred by the appellant-Electricity Board, were

dismissed on the ground of delay, as it was observed that the Writ Petitions were preferred after two years of the award of the Labour Court.

4. Learned Counsel for the appellant-Electricity Board submitted that number of Claim Petitions were preferred by different employees and similar

orders were passed. For the same reason, the Writ Petitions were preferred one after another, which were also preferred subsequently in the year

2003. It was submitted that though other Writ Petitions have been entertained and disposed of on merits, the present Writ Petitions have been

disposed of mainly on the ground of delay. Learned Counsel for the appellant-Electricity Board placed reliance upon an unreported decision of this

Court, dated 18.12.2006 passed in W.P. No. 8193 of 2000, etc. batch cases (The Superintending Engineer, Coimbatore Electricity Distribution

Circle, North Tamil Nadu Electricity Board, Coimbatore v. The Presiding Officer, Labour Court, Coimbatore and Thiru. K.P. Janardhanan),

whereby, a Division Bench of this Court has set aside such order passed by the Labour Court. This has also been accepted by the learned

Counsel appearing on behalf of the contesting respondents.

5. We have heard the rival contentions of the counsel for the parties on merits and also perused the judgment dated 18.12.2006 passed by the

Division Bench of this Court in W.P. Nos. 8193 of 2000, etc. batch cases. In fact, the Writ Petitions were preferred within two years, in view of

the fact that number of such orders were passed one after another by the Labour Court and there was justification on the part of the appellant-

Electricity Board to explain the delay. The learned single Judge should have entertained the matters to decide the same on merits, instead of

rejecting the prayer on the ground of delay.

6. In the batch cases (K.P. Janardhanan (supra)), this Court noticed that the employees retired from the services of the Tamil Nadu Electricity

Board. After pension scheme was introduced to them with effect from 1st July, 1986, they were governed by the Pension Rules evolved by the

Electricity Board. Before the introduction of the pension and Death-cum-Retirement Gratuity, they were paid Contributory Provident Fund

together with a special contribution paid by the Board for the long service put in by the persons who were paying Contributory Provident Fund. In

addition to that, they were eligible for gratuity under the Payment of Gratuity Act, 1972. However, the Board has got an exemption from the

application of the Payment of Gratuity Act, 1972 with effect from the date of the Act. The Pension Rules themselves show that they were not

applicable to those who are covered by the Contributory Provident Fund Scheme. In view of the fact that those employees were brought under the

Pension Scheme, the amounts standing to their credit in the Contributory Provident Fund account were transferred to the pension account.

Notwithstanding the aforesaid facts, the workmen have approached the labour Court u/s 33C(2) of the Industrial Disputes Act, claiming the

amount of special contribution to be paid by the Board under the Contributory Provident Fund Scheme stating that they were eligible for the same.

They were allowed by the Labour Court.

7. Having heard the learned Counsel for the parties, for the reasons mentioned therein, the Division Bench held that such orders passed by the

Labour Court were illegal and quashed the said orders. As the contesting respondents herein are similarly situated, the amounts standing to the

credit of the respective Contributory Provident Fund account having been transferred to the pension account, they are not entitled to claim the

amount of Special Contribution, which has been paid by the Board under the Contributory Provident Fund Scheme.

8. We accordingly set aside the respective orders passed by the Labour Court in the Claim Petitions preferred by the contesting respondents

herein and the common order passed by the learned single Judge. The Writ Appeals are allowed. But there shall be no order as to costs.

