

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 1.4.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.11394 of 2013

K.Bhaskaran

... Petitioner

versus

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai 600 002.

2.The Regional Chief Engineer,
Coimbatore Region, TANGEDCO,
Coimbatore 12.

... Respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the order bearing Na.Ka.No.23613/ 2426/F11/F111/2008 dated 24 October 2008 on the file of the 1st respondent and quash the same.

For petitioner

Mr.S.Siva Shanmugam

For respondents

Mr.P.R.Dhilipkumar

O R D E R

The unreasonable attitude taken by the Tamil Nadu Generation and Distribution Corporation Ltd., (TANGEDCO), by rejecting the application submitted by the petitioner for revision of his pension, in spite of informing him earlier that he is eligible for such revision, pursuant to the Board proceedings in B.P.No.271 dated 23 October 1991, made the petitioner to file this Writ Petition seeking justice, at the age of 85 years.

The facts :-

2. The petitioner, joined the services of Tamil Nadu Electricity Board as Junior Assistant on 5 May 1949. The petitioner was finally promoted to the post of Deputy Financial Controller (Class I Post) and after attaining the age of superannuation, retired on 31 August 1988. Pension of the petitioner was fixed at Rs.2020 p.m. plus D.A. of Rs.242/-.

3. Subsequently, the Government have issued an order in G.O.Ms.No.579 Finance (Pension) Department dated 15 September 2006, to the effect that pension in respect of the pensioners/family pensioners who retired on or after 1 June 1960 and before 31 May 1988 and whose family pension plus dearness allowance at 608 points per month does not exceed Rs.500/-, shall be refixed from 1 June 1988, by increasing the sum total of the basic pension and the related dearness allowance at 608 points by 60% and for those whose pension plus dearness allowance at 608 points exceeds Rs.500/- shall be refixed with effect from 1 June 1988 by increasing the sum total of basic pension and related dearness allowance at 608 points by 50%. The said Government Order was implemented by Tamil Nadu Electricity Board vide B.P.No.2 dated 1 February 2008. However, while implementing the Government Order, Tamil Nadu Electricity Board has revised the scale of pay of those employees who had retired from 1 December 1988. Subsequently, the Board issued proceedings in B.P.No.271 dated 23 October 1991, providing for revision of pension.

4. The petitioner was informed by TANGEDCO vide letter dated 18 November 2010 that he is eligible for revised pension as per B.P.No.271 dated 23 October 1991. However, very strangely, by way of the impugned order dated 24 October 2008, application for revision of pension was rejected. The petitioner is therefore before this Court.

5. The Chief Engineer, Coimbatore Region, has filed a counter affidavit justifying the impugned order.

6. Heard the learned counsel for the petitioner and the learned Standing counsel for TANGEDCO.

Discussion :-

7. There is no dispute that the Government have issued an order in G.O.Ms.No.579 Finance (Pension) Department dated 15 September 2006, to revise the pension in respect of pensioners who retired on or after 1 June 1960. The then Tamil Nadu Electricity Board, pursuant to the Government Order, issued B.P.No.2 dated 1 February 2008, giving certain benefits to the pensioners by revising scale of pay and related pension. It is also a matter of record that the Board subsequently issued proceedings in B.P.No.271 dated 23 October 1991, revising the pension. In fact, the Board informed the petitioner that he is eligible for revision of pension pursuant to B.P.No.271 dated 23 October 1991.

8. The Government have issued an order in G.O.Ms.No.363 Finance (PGC) Department dated 23 August 2013, revising pension to those who retired between 1 June 1988 and 31 December 1995, and extending certain additional benefits. TANGEDCO, pursuant to the said

Government Order, issued proceedings in B.P. No.72 dated 22 February 2014. The Board accepted the policy decision taken by the Government and resolved to extend the benefits to the pensioners.

9. The proceedings in B.P.No.72 dated 22 February 2014, reads thus :-

PROCEEDINGS:

In the Government order read above, the Government issued orders extending certain additional benefits to those retired during 1.06.1988 to 31.12.1995 and alive pensioner.

2. The Pensioners Associations have been requesting for implementation of the said orders in the Corporation. The same has been considered and it has been decided to extend the benefits to the pensioners retired during the aforesaid period and are alive on the date of issue of Government Order (23.08.2013).

3. Accordingly, it is hereby directed that:-

i) the pensioners who have retired between 1.6.1988 and 31.12.1995 shall be permitted to compute average emoluments notionally for the calculation of pension based on the scales of pay introduced with effect from 1.12.1984 upto the date of retirement (duly ignoring the 1.12.1988 and 1.12.1992 wage revisions) and with reference to the Dearness Allowance and Additional Dearness Allowance applicable under the Government pattern in the pre-revised scale of pay sanctioned from time to time as Dearness pay for the entire 10 months preceding retirement.

ii) further, such of the pensioners who retired between 1.6.1988 and 31.12.1995 shall have the option to opt for the above formula or to retain the current pension, whichever is advantageous to them;

iii) if the option is exercised for the pre-revised scale to calculate the pension, the excess pay and allowances and terminal benefits, if any drawn by them in the revised scale of pay prior to their retirement shall be waived as a special case.

4. (i) The Pensioners those who are alive shall exercise option and apply to the Pension Sanctioning Authority in the application and option annexed to this Proceedings for revision as ordered in para.3 above. All the Pension Sanctioning Authorities are hereby instructed to

revise the pension as ordered in para.3 above and send the same to the CIAO/Audit Branch.

(ii) In view of the huge financial commitment in extending the said benefits and as TANGEDCO is also facing financial constraints, the arrears accruing consequent on approval of this proposal could not be paid in one lumpsum. The CIAO/Audit Branch, is hereby instructed to pay the revised pension and consequential arrears in two annual equal instalments in the financial year 2014-2015 and 2015-2016.

(iii) The applicable rates of Dearness Allowance at the rate of 608 points of All India Consumer Price Index and Additional Dearness Allowance admissible from time to time along with illustration are appended to this order.

5. The receipt of the Proceedings may be acknowledged.

10. The petitioner is similarly situated and as such, he is also entitled to the benefits of the proceedings in B.P.No.72 dated 22 February 2014.

11. The issue raised by the petitioner herein was considered by the Supreme Court in Civil Appeal Nos.8848 and 8849 of 2012 etc. Batch (Kallakuruchi Taluk Retired Official Association vs. State of Tamil Nadu). The Supreme Court rejected the contention taken by the Government with regard to extension of benefits to the employees who retired on or after 1 June 1988. It was only pursuant to the judgment of the Supreme Court dated 17 June 2013, the Government have issued G.O.Ms.No.363 Finance (PGC) Department dated 23 August 2013. I am therefore of the view that the respondents were not correct in denying revised pension to the petitioner.

12. In the result, the impugned order dated 24 October 2008 is set aside. The respondents are directed to pay revised pension to the petitioner in the light of the Board proceedings in B.P.(Ch) No.271 (SB) dated 23 October 1991, the Government Order in G.O.Ms.No.363 Finance (PGC) Department dated 23 August 2013 and the recent proceedings in B.P.No.72, dated 22 February 2014. He should also be paid the arrears. Such exercise shall be completed within a period of four weeks from the date of receipt or production of a copy of this order.

13. In the upshot, I allow the Writ Petition. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai 600 002.

2.The Regional Chief Engineer,
Coimbatore Region, TANGEDCO,
Coimbatore 12.

1 cc to Mr.S. Sivashanmugam, Advocate, Sr. 18790

1 cc to Mr.P.R. Dhilipkumar, Advocate, Sr. 18256

W.P.No.11394 of 2013

RK (CO)

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