

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.5884 of 2016

and

WMP.No.5240 of 2016

R. Jayaprakash

..Petitioner

Vs.

1. The Secretary  
Tamil Nadu General and Distribution  
Corporation Limited (TANGEDCO)  
144, Anna Salai, Chennai -600 002
2. The Chief Financial Controller/ General  
Tamil Nadu Generation and Distribution  
Corporation Limited (TANGEDCO)  
144, Anna Salai, Chennai -600 002
3. The Chief Engineer/ Planning & Resource Centre  
Tamil Nadu Generation and Distribution  
Corporation Limited (TANGEDCO)  
144, Anna Salai, Chennai -600 002

..Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified mandamus calling for the records pertaining to the order Memo No/041793/595/D23/D231/2015 dated 07.10.2015 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to sanction the annual increment with effect from 01.7.2014 with all consequential benefits.

For Petitioner : Mr.A.Kalaiselvan

For Respondents : Mrs. R.Varalakshmi

O R D E R

This writ petition has been filed by R.Jayaprakash, challenging the order dated 07.10.2015 passed by the second respondent, in and by which a request made by him to sanction the annual increment was rejected.

2. Heard Mr.A.Kalaiselvan, learned counsel for the petitioner and Mrs. R.Varalakshmi, learned standing counsel, who took notice for the respondents and with their consent, the main writ petition itself is taken up for disposal.

3. The petitioner was appointed as Typist on compassionate ground in the respondents' Board on 28.12.1999 and subsequently, he was promoted to the post of Assistant Accounts Officer. While so, the petitioner was placed under suspension by an order of the second respondent dated 08.8.2012 on the ground that an enquiry into grave charges was contemplated. Aggrieved against the said order, the petitioner filed WP.No.18827 of 2013 and this Court, by order dated, 10.7.2013, directed the first respondent therein to consider and dispose of the representation dated 14.2.2013. Pursuant to the direction of this Court, on 16.8.2013, the order of suspension was revoked. However, the annual increment due on 01.7.2014 was not sanctioned to the petitioner. Therefore, he made a representation dated 08.8.2014, followed by another representation dated 12.01.2015 to the respondents requesting to sanction annual increment with effect from 01.7.2014. Since no order was passed on the said representations, the petitioner approached this Court by way of writ petition in WP.No.26899 of 2015 and this Court, by order dated 28.8.2015, directed the first respondent therein to consider and dispose of the representations. On 25.9.2015, the petitioner made a representation to the respondents 1 and 2 to implement the order of this Court dated 28.8.2015. However, by order dated 07.10.2015, which is impugned in this writ petition, the second respondent rejected the request made by the petitioner on the ground that the charges framed against the petitioner are serious in nature and caused heavy loss to the TANGEDCO. Therefore, the petitioner has come to this Court.

4. The learned counsel for the petitioner by drawing the notice of this Court to Note 2 of Regulation No.35 of the Tamil Nadu Electricity Board Service Regulations, submitted that the petitioner is entitled to get annual increment as no order is passed withholding his increment. According to the learned counsel, as per Regulation, annual increment shall ordinarily be drawn as a matter of course unless it is withheld.

5. Prima facie, I find some merits in the submission made by the learned counsel for the petitioner. The case of the petitioner appears to have been supported by Note 2 of Regulation No.35 of the Tamil Nadu Electricity Board Service Regulations. It is pertinent to extract Note 2, which reads as under:

"Note 2: Under Regulation 35, an increment shall ordinarily be drawn as a matter of course unless it is withheld. Therefore, the fact that charges are pending against an employee is not an adequate reason for not authorising the increments due to him. If the penalty of stoppage of increment is imposed on him as a result of the charges against him, his next increment accruing after the date of the order imposing the penalty can be withheld as there is no objection to withholding it subsequent to the period of service to which the charge relate."

6. It is an admitted fact that though the petitioner was placed under suspension with effect from 08.8.2012, subsequently, by order dated 16.8.2013, the third respondent has revoked the order of suspension. Therefore, as per Note 2 of the Regulation No.35 of Service Regulations of Tamil Nadu Electricity Board, the petitioner is entitled to get annual increment for the duty period.

7. Therefore, this Court deems fit to direct the respondents to pass fresh orders on the representation dated 25.9.2015 submitted by the petitioner. Accordingly, the impugned order is set aside and the matter is remitted back to the second respondent to consider the case of the petitioner afresh on merits and in the light of Note 2 of Regulation No.35 of Tamil Nadu Electricity Board Service Regulations. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is partly allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

ga

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary

Tamil Nadu General and Distribution  
Corporation Limited (TANGEDCO)  
144, Anna Salai, Chennai -600 002.

2. The Chief Financial Controller/ General  
Tamil Nadu Generation and Distribution  
Corporation Limited (TANGEDCO)  
144, Anna Salai, Chennai -600 002.
3. The Chief Engineer/ Planning & Resource Centre  
Tamil Nadu Generation and Distribution  
Corporation Limited (TANGEDCO)  
144, Anna Salai, Chennai -600 002.

+ 2 CCS TO Mr.A.Kalaiselvan, ADVOCATE SR 10625

+ 1 CC TO Mrs.R.Varalakshmi, ADVOCATE SR 10349

KR/5/4/16

W.P.No.5884 of 2016



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