



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE Mr.JUSTICE S.S.SUNDAR

Writ Appeal (MD)No.814 of 2016

M.Maria Rethinam Josephraj

... Appellant/Petitioner

vs.

1. The Chairman and Managing Director,
Tamil Nadu Generation and
Electricity Distribution Co.,
800, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Tamil Nadu Generation and
Electricity Distribution Co.,
Kanyakumari Electricity
Distribution Circle,
Nagercoil - 3.

... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent, , to
set aside the order passed in W.P.(MD) No.13708 of 2011 dated
06.11.2012.

Prayer in WP(MD). 13708/ 2011 :

Writ Petition filed under Article 226 of the Constitution
of India praying for issuance of a WRIT OF MANDAMUS to direct the
Respondents to enhance the pay of the petitioner to that of his
junior with effect from 02.04.1993 with the consequent higher
benefit of pension.

For Appellant	...	Mr.C.K.M.Appaji
For Respondents	...	Mr.Prabakaran for Mr.A.U.Ramanathan

ORDER

(ORDER OF THE COURT WAS MADE BY S.MANIKUMAR, J.)

<https://hcservices.courts.gov.in/hcservices/>
With the consent of parties, the writ appeal itself is taken
up for hearing.



2.Perusal of the order impugned and the submissions made by the learned counsel for the parties disclose that the appellant has sought for revision of scale of pay on par with that of his junior.

WEB COPY

3.Mr.C.K.M.Appaji, learned counsel for the appellant submitted that the scale of appellant's junior was fixed on 02.04.1993 at a higher level. Despite request, appellant's scale was not revised.

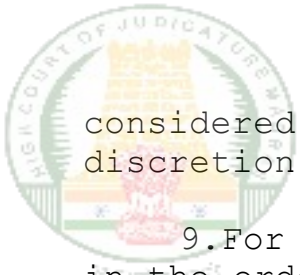
4.During the course of hearing, Mr.C.K.M.Appaji, learned counsel for the appellant submitted that though a request for revision for scale of pay on par with that of his junior was made, the same was rejected by Superintending Engineer, Kanyakumari Electricity Distribution Circle, Nagercoil by a memo No.015801/Admin I/A3/99 dated 15.06.1999 and that the same was not challenged before the competent authority or the Court.

5.Learned counsel for the appellant also submitted that the appellant had attaining superannuation and the appellant retired from service in the year 2011. Perusal of the order impugned before us shows that the writ Court, having found that the appellant was guilty of laches and delay, declined to grant the prayer sought for.

6.Prayer sought for in the writ petition in W.P.(MD) No.13708 of 2011 is for a mandamus, directing the respondents to enhance the pay of the petitioner /appellant on par with that of his junior with effect from 02.04.1993 with consequential benefits.

7.Though the pay of the junior was fixed at a higher level on 02.04.1993, the appellant had sought for revision of pay scale of pay on par with that of his junior and that his request for rectification of pay anomaly had been declined as early as on 15.06.1999 by the Superintending Engineer, Kanyakumari Electricity Distribution Circle, Nagercoil. Admittedly, between 1999 and 2011 till the date of retirement, he had not questioned the order. Thus, it has reached finality in 1999. After retirement in 2004, the petitioner has approached this Court, after seven years i.e. in 2011. Thus, at each and every stage, there is an inordinate delay.

8.Notwithstanding the above, when the request of the petitioner for rectification of pay anomaly has been rejected by an order of the competent authority viz., Superintending Engineer, Kanyakumari Electricity Distribution Circle, Nagercoil, writ of mandamus, cannot be issued for the reason that would have the effect of setting aside an order passed by a competent authority and that without there being challenged. Mandamus can be issued only if there is failure on the part of the authorities in their discharging duties.In the present case, request has been



considered and that the competent authority has exercised his discretion and accordingly, rejected the same.

9. For the reasons stated supra, we do not find any infirmity in the order impugned.

10. The writ petition is dismissed. However, no order as to costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Chairman and Managing Director,
Tamil Nadu Generation and
Electricity Distribution Co.,
800, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Tamil Nadu Generation and
Electricity Distribution Co.,
Kanyakumari Electricity
Distribution Circle,
Nagercoil - 3.

ARUL

TE/PEK/SAR-I : 02/06/2016 : 3P/3C

Writ Appeal (MD) No. 814 of 2016
28.04.2016