



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 07.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.514 of 2014
and
M.P.[MD]No.1 of 2014

- 1.The Tamil Nadu Electricity Board,
rep.by its Chairman,
144, Anna Salai,
Chennai - 600 002.
- 2.The CIAO / The Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.
- 3.The Superintending Engineer,
Virudhunagar EDC / The Tamil Nadu
Electricity Board, Virudhunagar. ... Appellants

Vs.

- 1.The R.Ramalingam
- 2.The Commissioner,
Madurai Municipal Corporation,
Madurai. ... Respondents

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 12.04.2011 passed in W.P (MD).No.11366 of 2010, dated 12.04.2011.

Prayer in WP(MD). 11366/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the respondents to implement the order of the 3rd respondent in Pro.No. SE/VREDC/VDC/ADM.II/A3/S1. No. /09 dated 16.07.2009 in sanctioning monthly pension, commutation of pension and family pension and to pay monthly pension, commutation of pension and other pension benefits to the petitioner with arrears payable to the petitioner with effect from 01.07.2008 together with reasonable rate of interest within the time limit that may be fixed by this Honourable Court.

For Appellants

: Mr.V.Panneer Selvam

<https://hcservices.courts.gov.in/hcservices/>
For Respondents

: Mr.A.Rahul for R1

Mr.R.Murali for R2

**JUDGMENT**

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

The Tamil Nadu Electricity Board is on appeal, questioning the order dated 12.04.2011, allowing the writ petition WP(MD)No.11366 of 2010.

2.The said writ petition was filed by the first respondent herein. The first respondent had joined the Madurai Municipal Corporation as Electrical Superintendent, way back in the year 1971. In April 1995, the Electricity Department under the control of Madurai Corporation was taken over by the Tamil Nadu Electricity Board and since then, the first respondent/writ petitioner became the direct employee of Tamil Nadu Electricity Board.

3.The first respondent/writ petitioner was deputed to work as Assistant Engineer (Street Lights), Madurai Corporation, with effect from 23.03.1998. He was repatriated to Tamil Nadu Electricity Board on 07.08.2006 and he retired from service on 30.06.2008. The first respondent/writ petitioner was allowed to retire from service, but, his regular pension was not paid to him. This was because a report appeared to have been sent by the Vigilance and Anti Corruption Department to the Government of Tamil Nadu against the first respondent/writ petitioner in respect of his acts and omissions committed during the period when he was on deputation to Madurai Corporation.

4.Aggrieved by the non sanctioning of the pensionary benefits, the first respondent/writ petitioner filed WP(MD) No.11366 of 2010. The learned Single Judge by order dated 12.04.2011, disposed of the writ petition with the following directions.

"7. In view of the above stated position, this Court is constrained to direct the first respondent to sanction the monthly pension, commutation of pension and family pension to the petitioner. Accordingly, the first respondent is directed to sanction the monthly pension, commutation of pension and family pension to the petitioner and the said exercise has to be carried out by the first respondent, within a period of six weeks from the date of receipt of a copy of this order. It is needless to say that the respondents are at liberty to proceed against the petitioner for any lapses committed by him during his service under Rule 9 of the Pension Rules. If such proceedings are initiated, it is also open to the petitioner to contest the same in the manner known to law."



5. Aggrieved by the same, Tamil Nadu Electricity Board has filed this intra court appeal.

6. Heard the learned counsel for Tamil Nadu Electricity Board and the learned counsel appearing for the first respondent/writ petitioner as well as second respondent, Madurai Corporation.

7. It is not in dispute that the first respondent/writ petitioner reached the age of superannuation on 30.06.2008. The writ petition itself was disposed of on 12.04.2011 by the learned single Judge. The learned counsel for Madurai Corporation submitted that the disciplinary action against the writ petitioner can be initiated only by Tamil Nadu Electricity Board. The Tamil Nadu Electricity Board had been taking a stand that since the alleged acts were committed by the writ petitioner during his deputation period, it is only Madurai Corporation which can take action. Since neither of the bodies assumed jurisdiction to initiate action, till date the fate of the writ petitioner has been hanging in the balance. Admittedly, no charge memo has been served on him. This state of affairs cannot continue indefinitely.

8. In these circumstances, there is no justification in interfering the order passed by the learned Judge. There are no merits in this Writ Appeal. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

/True Copy/

Sub Assistant Registrar

To

The Commissioner,
Madurai Municipal Corporation,
Madurai.

+1cc to Mr. A. Rahul, Advocate, SR. 64212
+1cc to Mr. R. Murali, Advocate, SR. 64181

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GK