

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.A.No.650 of 2011

A.Venkatachalam

... Appellant/Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Electricity Board,
Chennai-2.
- 2.The Chief Engineer,
Personnel, Tamil Nadu Electricity Board,
800, Anna Salai, Chennai-2.
- 3.The Internal Audit Officer,
Tamil Nadu Electricity Board,
Chennai-2.
- 4.The Superintending Engineer,
Coimbatore Electricity Distribution Circle,
Coimbatore.

... Respondents/Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 30.09.2010 made in W.P.No.12 of 2007.

W.P.No.12 of 2007

Petition under Article 226 of the Constitution of India, Praying for a writ of certioraified Mandamus to call for the records of the 2nd respondent dt.1.3.2006 in M.S.No. 111853/G17/G172/2005-1 and quash the same and direct the respondents to refix the petitioners pay from 1.1.1989 on par with others.

For Appellant : Mrs. Hema Sampath, S.C., for
Mrs.R.Meenal
For respondents : P.R.Dhilipkumar, Standing counsel

JUDGMENT

(Judgment of the Court was made by M.M.SUNDRESH,J.)

The appellant, since attained the age of superannuation in the year 2003, filed the writ petition challenging the order dated 01.03.2006, by which, his request to step up his pay and refix it on par with his immediate junior was rejected. Challenging the same, the present writ appeal has been filed.

2.The learned single Judge has dismissed the writ petition inter alia holding that the appellant was appointed as Typist, whereas the person whom the appellant named as junior viz.,K.M.Karuppanasamy, was appointed as Junior Assistant. The cadre of both positions are different though promotional post is the same. The other person has been drawing higher scale of pay as against the appellant from 1976 onwards. The reliance made upon a similar case also cannot be considered since in that case pay fixation was done under Regulation 33(b) of the Tamil Nadu Electricity Board Service Regulation(hereinafter referred to as "the Regulation"), which is obviously different from the case of the appellant whose promotional pay has been fixed under Regulation 33(f).

3. The learned counsel for the appellant would submit that the appellant has been fighting his case for quite some time. The promotional post being the same, the appellant is entitled for a higher pay. Therefore, the order passed by the learned single Judge will have to be reversed.

4. It has not been disputed that the appellant's pay was lesser than that of the other person viz., K.M.Karuppanasamy on 01.01.1989, 31.07.1993, 29.01.1994 and 31.3.1984. This was only in the posts of Junior Assistant and Assistant. The appellant's pay in the promotional post is as per Regulation 33(f). The other person's pay has been fixed as per Regulation 33(b). As per Regulation 33(b), pay anomaly can be rectified when junior and senior officer belong to same cadre and the posts being identical. Secondly, the scale of pay in the lower and higher posts, in which they are entitled to draw pay, should be identical. As discussed above, the case of the appellant certainly would not come under the purview of Regulation 33(b). Further more, the appellant has slept over the matter and come forward with the writ petition in the year 2007, i.e., after his retirement. Thus, looking from any perspective, we do not find

any error in the order passed by the learned single Judge. Accordingly, the writ appeal fails and the same stands dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman,
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Chennai-2.
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- 4.The Superintending Engineer,
Coimbatore Electricity Distribution Circle,
Coimbatore.

+lcc to Mr.R.Meenal, Advocate, S.R.No.77158

W.A.No.650 of 2011

VGII(CO)
GSP(03/12/2018)

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