

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 18.04.2018

CORAM:**THE HON'BLE MR.JUSTICE R.SURESH KUMAR****W.P. (MD) No.8534 of 2018**

L.Veerabadran

...Petitioner

Vs.

- 1) The Chairman Cum Managing Director,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002
- 2) The Chief Engineer (Personnel),
TANGEDCO,
144, Anna Salai,
Chennai - 600 002
- 3) The Superintending Engineer,
TANGEDCO,
Virudhunagar Electricity Distribution Circle,
Ramamoorthy Road,
Virudhunagar

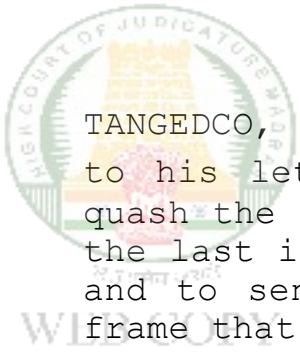
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent i.e., the Superintending Engineer, TANGEDCO, Electricity Distribution Circle, Virudhunagar relating to his letter க.எண்.2479/நபி4/உ2/கோ.பணப் பயன் கள் /2018, நாள்.08.03.2018 and quash the same and consequently direct the respondents to sanction the last increment which fell due on 01.04.1998 to the petitioner and to send revised pension proposals within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.G.Kasinathadurai,
Standing counsel for TANGEDCO.**O R D E R**

<https://hcservices.ecourts.gov.in/hcservices/> The prayer sought for in this Writ Petition is for seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent i.e., the Superintending Engineer,



TANGEDCO, Electricity Distribution Circle, Virudhunagar relating to his letter க.எண்.2479/நிபி4/உ2/கோ.பணப்பயன்கள்/2018, நாள்.08.03.2018 and quash the same and consequently direct the respondents to sanction the last increment, which fell due on 01.04.1998 to the petitioner and to send a revised pension proposal, within a specified time frame that may be fixed by this Court.

2. I have heard Mr.S.Visvalingam, learned counsel for the petitioner and Mr.G.Kasinathadurai, learned standing counsel for the respondents/ TANGEDCO.

3. The petitioner was working as an Assistant Administrative Officer, at the respondent Corporation and retired from service on 31.03.1998. However, the one year increment from 01.04.1997 to 31.03.1998, which fell due on 01.04.1998 was not sanctioned to the petitioner. Therefore, the petitioner seems to have made a representation, of course recently, to the respondent TANGEDCO, which was considered on merits and a rejection order/impugned order was passed by the respondent TANGEDCO on 08.03.2018, stating that, since the petitioner has retired prior to 01.04.1998 and those who approached this Court of law, to get the similar relief, have been granted with relief by this Court and therefore, such relief cannot be extended, to those who did not approach this Court. By stating these, the request made by the petitioner was turned down by the impugned order dated 08.03.2018 and challenging the same, the petitioner has approached this Court by filing this writ petition.

4. The learned counsel for the petitioner would submit that, the issue raised in this regard is covered by a number of decisions made by this Court.

5. Learned standing counsel appearing on behalf of the respondent TANGEDCO would submit that, though the petitioner retired in the year 1998, he did not agitate the issue for about 18 years and very recently, gave a representation and the same was considered and rejected through the impugned order. Therefore, at the length of this time, after 20 years of retirement, the petitioner cannot re-agitate the issue as it was a closed one. Therefore, the same cannot be reopened by stating the reason that, similarly placed persons were given such relief, as they have already approached this Court and got orders.

6. I have considered the submissions made by the learned counsel for the petitioner as well as the learned standing counsel appearing for the respondent TANGEDCO.

7. The grant or sanctioning of notional increment for the employees, which fall on the next date to the date of superannuation / retirement has already been considered by the



Government of Tamil Nadu and it has issued an order vide G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014 and the import of the said G.O., has been inherited, as the respondent/TANGEDCO also decided to implement the said scheme of sanctioning the increment, notionally to the retired employees for the purpose of pensionary benefits. However, in the said G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014, as well as the communication of the respondent/TANGEDCO, they have taken the stand that, in such implementation of G.O.Ms.No.311 Finance (CMPC) Department, the employees who are falling in the category as stipulated in the above said G.O., are eligible to get their annual increments notionally, with effect from the date of retirement and the monetary benefits will be granted with effect from 31.12.2014 (i.e.,) the date of G.O.Ms.No.311.

8. However, the issue has been decided by this Court in a number of cases. One such order passed by the learned Judge in W.P.No.166 of 2018 dated 05.02.2018 in the matter of **B.Poovan vs., the Principal Secretary to Government, Revenue Department and others**, is relied by the learned counsel for the petitioner, wherein the learned Judge has passed the following order:

"4. Therefore, the first respondent is directed to sanction the petitioner's last increment which fell due on 01.07.2008 within a period of twelve weeks from the date of receipt of a copy of this order and also disburse the arrears immediately thereafter. Since the last increment has been directed to be sanctioned, the petitioner's pension will also have to be correspondingly revised. The entire exercise of sanctioning of last increment and revision of the petitioner's pension shall be done within a period of twelve weeks from the date of receipt of copy of this order and arrears will have to be disbursed forthwith.

5. The Writ Petition is allowed accordingly. No costs."

9. Relying upon the said order, various orders have been passed by this Court. Learned counsel appearing for the petitioner submitted that the petitioner would be entitled to get the benefit of getting one increment.

10. I have considered the submissions made by both the counsel appearing for the petitioner as well as the respondent TANGEDCO and perused the materials available on records and also the order quoted by the learned counsel for the petitioner. Since the issue raised in this regard is no more *res integra* as in a number of cases, similar to that of this case, this Court shown its indulgence and based on which directions have been given which



were complied with by the respondent/employer, a different view cannot be taken against the petitioner alone.

11. The grounds raised by the respondent TANGEDCO that, the petitioner has not approached the respondents for the past 20 years after retirement, may appear to be a justifiable one. But, for the simple reason that, the petitioner having approached the respondent now, has been rejected through the impugned order 08.03.2018, which made the writ petitioner to approach this Court by filing the present writ petition. Therefore, the issue of delay or laches could not be now raised against the petitioner in view of the reason given in the impugned order dated 08.03.2018. Therefore, the said reason or objection raised by the learned standing counsel appearing for the respondent TANGEDCO cannot be accepted.

12. In view of the above, this writ petition is disposed of with the following directions:

"The impugned order dated 08.03.2018 is quashed. Consequently, the respondents are directed to consider the request of the petitioner and sanction one increment for the period 1.04.1997 to 31.03.1998 and based on such increment, pay and pensionary benefits shall be recalculated and also based on the same, pending arrears to the petitioner shall be paid within a period of eight weeks from the date of receipt of a copy of this order and the respondents shall continue to pay the revised pensionary benefits to the petitioner."

13. However there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

- 1) The Chairman Cum Managing Director,
TANGEDCO,
144, Anna Salai,
Chennai - 600 002
- 2) The Chief Engineer (Personnel),
TANGEDCO,
144, Anna Salai,
Chennai - 600 002



3) The Superintending Engineer,
TANGEDCO,
Virudhunagar Electricity Distribution Circle,
Ramamoorthy Road,
Virudhunagar.

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+ 1 cc TO Mr.G.Kasinathadurai , Advocate in SR No. 62684
+ 1 cc TO Mr.S.Visvalingam , Advocate in SR No. 61945

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AE/SV MMS/SAR1/08.06.2018/5P/6C

Order in
W.P. (MD) No.8534 of 2018
18.04.2018