

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2019

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THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.38442 to 38447 of 2005

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W.P.M.P.Nos.41165 to 41170 of 2005

R.Kuppusamy	... Petitioner in W.P.No.38442 of 2005
M.Perumal	... Petitioner in W.P.No.38443 of 2005
K.Nagaraji	... Petitioner in W.P.No.38444 of 2005
G.Venkatesan	... Petitioner in W.P.No.38445 of 2005
E.Margandan	... Petitioner in W.P.No.38446 of 2005
N.Manickam	... Petitioner in W.P.No.38447 of 2005

Vs

The Superintending Engineer,
Tirupattur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupattur, Vellore District 635 601.

... Respondent in all W.Ps.

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondent to revise the petitioners wage as per the B.P.No.220 dated 16.10.2005.

For Petitioners in all W.Ps. : Mr.S.T.Varadarajalu

For Respondent in all W.P.s : Mr.Fakkir Mohideen

सत्यमेव जयते
C O M M O N O R D E R

Since the cause of action and the prayer sought for are one and the same in all the writ petitions, a common order is being passed.

2. The petitioners herein were employed as contract workmen in the year 1980. As per the recommendations of Justice Khalid Commission, they were appointed as helpers and put on scale of pay in the year 1995. In the year 2000, the petitioners were promoted as wiremen. On 22.10.2001, the petitioners were suspended on the ground that, they produced bogus educational certificate, for their promotions to the post of wiremen. The

petitioners herein had also challenged the suspension order in W.P.No.2646 of 2004 and an order of interim stay was obtained. Subsequently, the respondent had issued board proceedings No.27 dated 07.11.2002, whereby, the period of suspension was ordered to be regularized and the employees, who challenged the suspension order and obtained stay, were directed to be reinstated in service without prejudice to the disciplinary proceedings to be initiated and the suspended period was treated as duty period.

3. Thereafter, the petitioners were reinstated in the month of May 2003 and their time scale of pay was reduced to the minimum level of post held on the date of imposing punishment, for a period of three years as per board proceedings No.27.

4. While that being so, on 15.10.2005, the trade union had entered into settlement under Section 12(3) of the Industrial Disputes Act, whereby, one of the clauses was to the effect that, the basic pay of the employees would be increased by 6% with effect from 01.12.2002.

5. In the mean time, the petitioners herein were undergoing the punishment of reduction of pay to the minimum time scale for the period of three years commencing from May 2003. In other words, the petitioners punishment was from 01.05.2003 to 30.04.2006. The petitioners herein have filed the present writ petitions seeking for issuance of a writ of mandamus directing the respondent herein to revise their wages without reference to the punishment on the ground that the increase in the basic wages was pursuant to the settlement and the currency of their punishment will not have any bearing.

6. The Regulations of the respondent electricity board does not enable the petitioners to the benefits of pay revision during the currency of a punishment. While that being so, since the settlement arrived under Section 12(3) of the Industrial Disputes Act was with effect from 01.12.2002, at the most, the petitioners would have been entitled for an increase in their basic pay between 01.12.2002 to 29.04.2003. Thereafter, from the date of punishment, i.e., commencing from 30.04.2003, the petitioner will not be entitled for 6% increase on their basic pay. After completion of three years of the punishment period, the petitioner would thereafter be entitled for an increment of 6% of the basic pay, as agreed under the settlement.

7. The respondent herein has filed a counter affidavit dated 20.11.2018, wherein they have stated that the pay of the petitioners was fixed with 6% increase with effect from 01.12.2002 to 29.04.2003. After this date, the punishment had commenced, therefore their pay was again refixed for the period of three years. On completion of three years, the petitioners

pay was again refixed by giving effect to 6 % increase under the settlement.

8. While that being so, there cannot be any infirmity in the mode adopted by the respondent in calculating the petitioners wages and implementing the terms of settlement. Since the respondent had properly implemented the clauses in the settlement, no further interference is required in these writ petitions. Accordingly, these writ petitions are closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

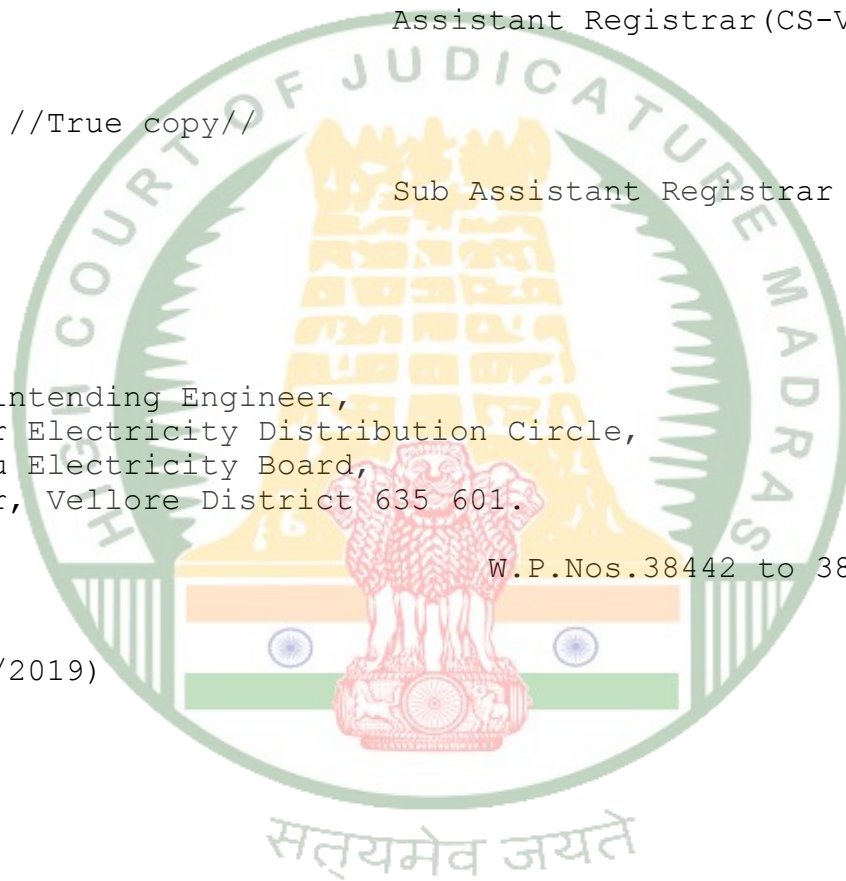
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To

The Superintending Engineer,
Tirupattur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupattur, Vellore District 635 601.

W.P.Nos.38442 to 38447 of 2005

KS (CO)
GMY (01/07/2019)



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