BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.12.2019**

CORAM:

THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.[MD]No.1399 of 2011

K.R.Subramanian : Petitioner / Appellant

Vs.

1) Tamil Nadu Generation and Distribution Company Limited,
Rep. by its Chairman/ Managing Director,
809, Anna Salai,
Chennai 600 002

2) The Chief Engineer (Distribution),
Tamil Nadu Generation and Distribution Company Limited,
K.Pudur, Madurai -7

3) Internal Audit Officer,
Board Office Audit Branch / TNEB,
NPKRR Maligai,
1^{st} Floor, 800, Anna Salai,
Chennai 600 002 : Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 12.10.2011 passed in W.P(MD)No.11697 of 2011.

Prayer in WP(MD). 11697/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records relating to the impugned proceedings bearing (Per) CMD TANGEDCO Proceedings No.48, dated 27-06-2011 read with proceedings bearing CE/Distribution/Madurai Memo No.10181/174/D2/2002-52, dated 08-10-2003 issued by the second Respondent and quash the same and consequently direct the Respondents to refix the Petitioner s Pension by treating his final pay as Rs.13,475/- on 28-02-2005 and pay the pensionary arrears after deducting the monetary equivalent of the penalty imposed on the petitioner.

For Appellant : Mr.S.Anwar Sameem for Mr.B.Prasanna Vinoth

For Respondents : Mr.T.Sakthi Kumaran

JUDGMENT

[Judgment of the Court was delivered by **SUBRAMONIUM PRASAD, J.**]

Relying on explanation to Rule 4 of the Tamil Nadu Electricity Board Employee's Discipline and Appeal Regulations, it is contended by the learned counsel for the appellant that the appellant has suffered a punishment of withholding of increment for a period of six months without cumulative effect from 08.10.2003. He contested that pensionary benefits should be counted on the actual salary, which he would have got on the crucial date and not on the salary, which was calculated on the basis of reduced increment. He would state that if this is not done, then the result will be that though the order of punishment is stoppage of increment without cumulative effect, it will result in reduction of pension and will result in the punishment having cumulative effect. The contention though attractive is not acceptable.

2. The appellant petitioner was imposed with the punishment on 08.10.2003. The increment, therefore, was stopped. During the currency of punishment, the petitioner attained the age of superannuation on 28.02.2005. On the date, when the appellant petitioner retired, the punishment was still subsisting and therefore, the pension has to be calculated only on the last drawn salary. If we accept the argument of the appellant petitioner, it would amount to rewriting the Statute, which this Court cannot do. Accordingly, the Writ Appeal fails and the same is, accordingly, dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To
+1 CC to MR.T.SAKTHI KUMARAN, Advocate (SR-105446[F] dated 17/12/2019)

+1 CC to MR.B.PRASANNAVINOTH, Advocate (SR-105702[F] dated 18/12/2019)

JUDGMENT MADE IN
W.A.[MD]No.1399 of 2011
Dated:
17.12.2019

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