

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.11327 of 2006

S.Jagadeesan

...Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
Rep by its Chairman,
No.800, X Floor, K.R.R.Maaligai,
Anna Salai, Chennai - 600002.

2. The Chief Internal Officer,
Board Office Audit Branch,
K.R.R.Maaligai, I Floor,
No.800, Anna Salai,
Chennai - 600002.

3. The Superintending Engineer,
Cuddalore Electricity Distribution Circle,
Cuddalore.

4. The Divisional Engineer,
Tamil Nadu Electricity Board,
100 K.V. Electricity Sub Station Campus,
Poothamur,
Virudachalam.

...Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the third respondent in Lr.No.5791/Admin.1/A3/F.WP.6688/05 dated 17.05.2005 and quash the same and consequently directing the respondents 1 to 4 to re-fix the pay by giving the petitioner 5% increase in the pay fixation as per (Per)B.P.(F.B)No.106 Secretariat Branch dated 03.11.1994, on being promoted from the post of Foreman Grade I (Selection Post Junior Engineer Grade II) from the date of his promotion on 21.04.1997 till the date of his retirement. Thereafter, pay him the arrears of the pension on the revised pay and also the other accumulated terminal benefits and retirement benefits such as gratuity, D.C.R.G etc. together with interest thereon till date of payment.

For Petitioner : Ms.V.Pushpa

For Respondents: Mr.Fakkir Mohideen
Standing Counsel [R1, 3 & 4]
No appearance [R2]

ORDER

(Heard through Video Conference)

This Writ Petition has been filed challenging the order passed by the third respondent in Lr.No.5791/Admin.1/A3/F.WP.6688/05 dated 17.05.2005, quash the same and consequently, to the respondents to re-fix the pay by giving the petitioner 5% increase in the pay fixation as per (Per)B.P.(F.B)No.106 Secretariat Branch dated 03.11.1994, on being promoted from the post of Foreman Grade I (Selection Post Junior Engineer Grade II) from the date of his promotion on 21.04.1997 till the date of his retirement. Thereafter, pay him the arrears of the pension on the revised pay and also the other accumulated terminal benefits and retirement benefits such as gratuity, D.C.R.G etc. together with interest thereon till date of payment.

2. The petitioner was appointed as Foreman Grade I and subsequently, he was promoted to Junior Engineer Grade II. As per the Regulation 33(b), fixation of pay under Tamil Nadu Electricity Board Service Regulation, Junior Engineers II Grade (who was previously promoted from the post of Selection Grade Foreman I Grade) drawing pay in the pre-revised scale as per the Board Proceedings dated 03.11.1994 on his further promotion as Junior Engineer I Grade in the same pre-revised scale of pay before movement to selection Grade in the post of Junior Engineer II Grade is allowed. The above said Regulation ensuring fixation of 5% benefit was allowed as in the case of promotion from Foreman I Grade to Junior Engineer II Grade, in view of assumption of higher duties and responsibilities irrespective of the fact that both the lower post scale and the higher post scale are identical. The petitioner made several representations before the respondents but the same were rejected. Hence, the present writ petition before this Court.

3. The learned counsel appearing for the petitioner would submit that the petitioner was promoted from Foreman I Grade to Junior Engineer Grade II and as per the Regulation 33(b) of the Tamil Nadu Electricity Board, fixation of pay should be allowed, notwithstanding the fact that the scales of pay applicable to Foreman Grade I and Junior Engineer Grade II are identical. Therefore, the petitioner is entitled for 5% benefits apart from the scale of pay Junior Engineers II Grade, since Junior Engineer Grade II, is a promotive post and assumption of higher

duties and responsibilities. Therefore, he is entitled for 5 % benefits and the writ petition may be allowed.

4. The learned standing counsel appearing for the respondents 1, 3 & 4 would submit that scale of pay for the Foreman Grade I is higher than the Junior Engineer Grade - II and whoever gets promoted to Junior Engineer Grade - II is entitled for only the scale of pay available to the said post and not the other benefits. Therefore, the writ petition is liable to be dismissed.

5. Heard both sides and perused the materials placed on record.

6. Admittedly, the petitioner was promoted from Foreman Grade - I to Junior Engineer Grade - II. Even as per the Regulation and memorandums dated 20.06.1986 and 07.03.2000, whoever gets promoted from Foreman Grade I to Junior Engineer Grade II, assumption of higher duties and responsibilities irrespective of the fact that both the lower post scale and the highest post are identical, they are entitled for 5% benefit.

7. Considering the above facts and circumstances of this case, this Court finds that the petitioner is eligible for 5% benefit and therefore, the respondent is directed to pay all the consequential monetary benefits to the petitioner.

8. With the above directions the Writ Petition stands allowed and the order passed by the third respondent is set aside. No costs.

Sd/-

Assistant Registrar(CS-VII)

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To

Sub Assistant Registrar

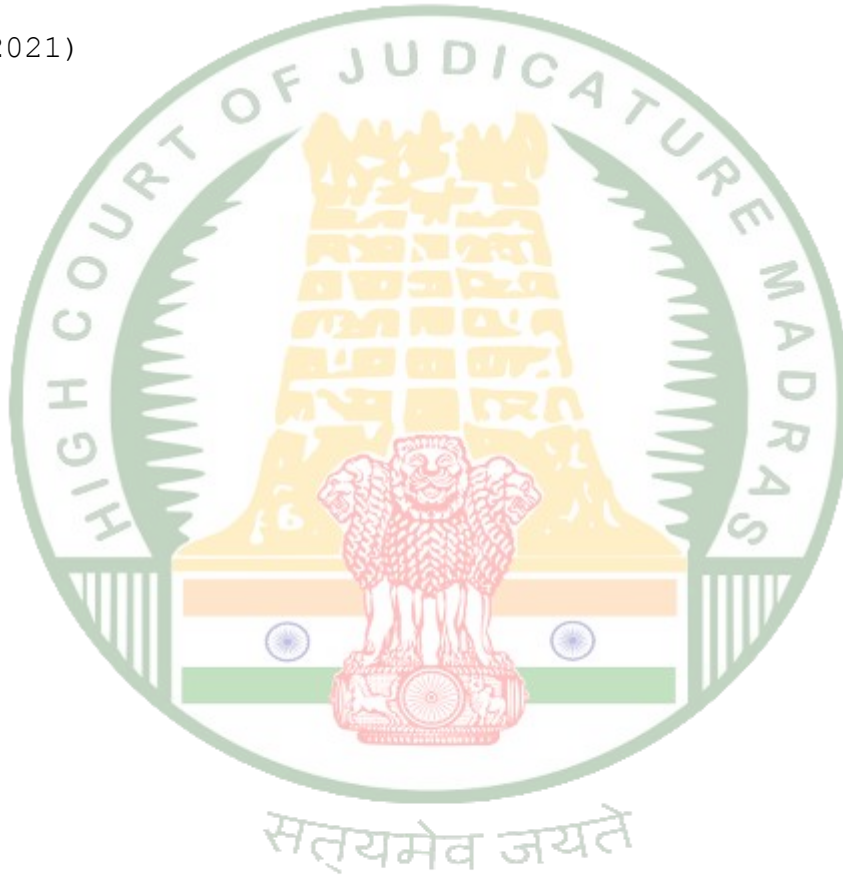
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Poothamur, Virudachalam.

+1cc to Mr.M.Fkkir Mohideen, Advocate, S.R.No.42820
+1cc to Mr.V.Pushpa, Advocate, S.R.No.42942

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