IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.31209 of 2005

M.Balasubramani ... Petitioner

Vs.

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

2.The Deputy Chief Internal Audit Officer,
Board Office Audit Branch,
Tamil Nadu Electricity Board,
No.800, I Floor, K.R.R.Maligai,
Anna Salai, Chennai - 600002.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Chengalpattu Electricity Distribution Circle,
Chengalpattu. ... 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 quash the order passed by the third respondent in Lr.No.51//Adm.3/A2/case No.1290/2005-1 dated 19.04.2005 sent pursuant to the proceedings in Pro.No.51/SE/CEDC//Adm.3/A2/case No.1290/2005 dated 19.04.2005, passed by the third respondent passed pursuant to the letter of the second respondent dated 08.02.2005 in letter No.02106/BOAB/F.8/F.82/C.No.6/Pt, directing the respondents 1 to 3 to fix my pay to the scale of Rs.8,800/- as per Regulation 33(b) fixation of pay under Tamil Nadu Electricity Board Service Regulation from 06.12.2000 and pay the revised pension pursuant to the fixation together with other retirement benefits.

For Petitioner : Mr.G.Arul Murugan

For Respondents: Mr.P.R.Dhilip Kumar
Standing Counsel

ORDER
(Heard through Video Conference)

This Writ Petition has been filed challenging the order passed by the third respondent dated 19.04.2005 sent pursuant

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to the proceedings dated 19.04.2005 passed by the third respondent passed pursuant to the letter of the second respondent dated 08.02.2005, directing the respondents 1 to 3 to fix the pay to the scale of Rs.8,800/- as per Regulation 33 (b) fixation of pay under Tamil Nadu Electricity Board Service Regulation from 06.12.2000 and pay the revised pension pursuant to the fixation together with other retirement benefits to the petitioner.

2. The crux of the case is that the petitioner joined the service as Temporary Casual Labour in the Tamil Nadu Electricity Board and thereafter had been periodically promoted. Subsequently, he was promoted from the post of Foreman Grade I to Junior Engineer Grade II. Thereafter, he was retired from service on superannuation on 31.10.2004 and sent pension proposal to the second respondent by the third respondent letter dated 28.12.2004, seeking for admittance of the proposal, for the payment of DCRG, increase DA and payment of pension. Thereafter, a revised pension proposal was sent to the second respondent by revising pay, pension and other benefits of the petitioner, without giving any notice or opportunity to him and ordered recovery of excess payment of pay and DA for the period of 06.12.2000 to 31.10.2004 including encashment of earned leave of Rs.36,219/- and excess payment of pension for the month of November 2004 of Rs.330/- totaling Rs.36,459/-. According to the Regulation 33(b), the petitioner was entitled for 5% benefit but the respondent has recovered not only the actual annual increment but also 5% increment that was accorded to the petitioner, against which the petitioner has given several representations to the respondents but there is no reply. Hence, the present writ petition.

3. The learned counsel for the petitioner would submit that the order of recovery of excess payment from the petitioner was passed by the respondents without any prior notice and thereafter, there was no reply to the representations made by him. Even though the petitioner was entitled for the benefits, recovery order was passed.

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

5. In view of the above facts and circumstances of this case, this Court finds that the recovery of the excess payment from the petitioner made by the respondents was without any prior notice. Since the recovery order passed by the third respondent dated 19.04.2005 was without any prior notice to the petitioner, the same shall be set aside.

6. Accordingly, the order passed by the third respondent dated 19.04.2005 is set aside and the respondents are directed to give notice to the petitioner regarding the same and after getting explanation from the petitioner, pass orders in

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accordance with law. Hence, the Writ Petition stands disposed of with the above directions. No costs.

Sd/-
Asst. Registrar

//True Copy//

Sub Asst. Registrar

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To

1.The Chairman,
Tamil Nadu Electricity Board,
No.800, K.R.R.Maligai,
Anna Salai, Chennai - 600002.

2.The Deputy Chief Internal Audit Officer,
Board Office Audit Branch,
Tamil Nadu Electricity Board,
No.800, I Floor, K.R.R.Maligai,
Anna Salai, Chennai - 600002.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Chengalpattu Electricity Distribution Circle,
Chengalpattu.

+1 C.C.to Mr.G.Arul Murugan ADVOCATE, SR.NO.42585

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VC (22/01/2021)

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