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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.01.2021
CORAM:
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)Nos.1233 to 1235 of 2014
and
M.P(MD)Nos.1,1,1,2 and 2 of 2014

1.The Managing Director,
Tamilnadu Water Supply and Drainage Board,
Kamarajar Salai,
Chennai.

2.The Executive Engineer,
Tamilnadu Water Supply and Drainage Board,
Maintenance Division,
11th Cross Street(West),
Thillainagar,
Trichy – 18. ... Appellants in all W.As / Respondents

Vs.

Balakumar ... Respondent in W.A(MD)No.1233 of 2014/ Petitioner

R.Dharmarajan ... Respondent in W.A(MD)No.1234 of 2014/ Petitioner

S.Ramakrishnan ... Respondent in W.A(MD)No.1235 of 2014/ Petitioner

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, to set aside the order dated 11.04.2014 passed in W.P(MD)Nos.4226, 4227 and 4228 of 2011 on the file of this Court.

Common Prayer in WP(MD). 4226 to 4228 of 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI, calling for the records of 2nd Respondent proceedings No.2323-1/Ko.Fitter/Uu.Va/2003 dated 23-03-2011 and quash the same.

(In all W.As)
For Appellant : M/s.Porkodi Karnan
For Respondents : Mr.S.Govindan for
Mr.P.Ramachandran

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COMMON JUDGMENT

(Judgment of the Court was delivered by PUSHPA SATHYANARAYANA,J.)

The writ appeals are preferred by the TWAD Board against the order dated 11.04.2014 passed in W.P(MD)Nos.4226, 4227 and 4228 of 2011.

2. The respondent in these writ appeals are the writ petitioners, who had challenged the proceedings of the appellants TWAD Board in proceedings No.2323-1/KO.Fitter/Uu.Va/2003, dated 23.03.2011.

3. The Writ petitioners are Pipeline Fitters having educational qualification of S.S.L.C passed with I.T.I Certificate and their services were regularized and pay scale was fixed. There was a Government Order in G.O.Ms.No.762 Fin (Pay Cell) Department, 20.08.1986, directing the appellants Board to designate the employees with the educational qualification of S.S.L.C passed + I.T.I Certificate as Group- I and S.S.L.C failed + I.T.I Certificate as Group – II. The scale of pay for Group – I and Group – II Posts were fixed as per Vth Pay Commission and thereafter, that were revised as per VIth Pay Commission. The appellants Board also adopted the said G.O.Ms.No.762, dated 20.08.1986 by its proceedings in B.P.Ms.No.505, dated 12.12.1986. Though the said G.O.Ms.No.762, dated 20.08.1986, was a general order covering all Trade Posts, the appellants Board had specifically adopted the same. The Annexure to the said G.O is having two groups viz., Group – I and Group – II. The Post of Fitters finds place in Group – II. The Board proceedings No.505, dated 12.12.1986 specifically adopted the above said G.O., and the same was communicated to all the Executive Engineers, Divisional Development Officers and Block Development Officers, to implement the orders issued in B.P.Ms.No.505 dated 12.12.1986, immediately on the same terms and conditions as ordered in the said Government Order. Immediately, they were implemented and the writ petitioners were drawing the scale of pay with annual increment referred therein till November, 2008. While so, a notice was received from the Board by the writ petitioners revising the pay already fixed with effect from 01.01.1996 stating further that the excess pay and allowance already paid will be recovered from the salary. Since the said order was challenged, the present order was passed after considering the explanation given by the writ petitioners on 23.03.2011 upholding the earlier order passed by revising the salary of the petitioners. The impugned order had not specifically mentioned about G.O.Ms.No.762. The order impugned was passed against the tenor of G.O.Ms.No.762, dated 20.08.1986. Therefore, the writ petitioners had challenged the same.

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4. The learned single Judge had followed the earlier order dated 08.11.2013 passed in W.P.No.31941 of 2004, which was squarely applicable to the facts and circumstances of the present cases and set aside the impugned order and restored the original pay that was received by the writ petitioners. Now, the TWAD Board had preferred the above appeals.

5. Though it was argued by the learned counsel appearing for the TWAD Board that the earlier order was not covering the same issue, she was unable to convince this Court as to how, B.P.Ms.No.505, dated 12.12.1986 relied on by them was not at all applicable to the writ petitioners as they fall under the category of Group – II. Admittedly, there is only one Group of Fitters as mentioned in G.O.Ms.No.762 in the Annexure. The TWAD Board adopted the same by virtue of B.P.Ms.No.505, dated 12.12.1986. The TWAD Board should have got it clarified. Having failed to do so and adopted the same mechanically, as early as in the year 1986, it is making an attempt to reverse the process.

6. In fact, the TWAD Board had further directed all the Executive Engineers, Divisional Development Officers etc., to implement the orders of B.P.Ms.No.505, immediately vide letter dated 26.04.1988. The order relied on by the learned Single Judge, which was passed in W.P.No.31941 of 2004 has considered in detail that the One Man Committee recommended the revised pay scales to the Trade Posts like Fitter, Welder and Electrician etc., classifying the employees based on their qualifications viz., S.S.L.C passed + I.T.I Certificate or S.S.L.C failed + I.T.I Certificate and fixed the pay scale. Admittedly, all the three writ petitioners are having qualification of S.S.L.C passed + I.T.I certification and the writ petitioners fall under Group – II category as Fitters as per Annexure to G.O.Ms.No.762, dated 20.08.1986. Having adopted the said G.O., even as early as in the year 1986, it is not appropriate on the part of the appellants Board to reverse the same and recover the excess wages paid to the employees.

7. In the light of the above discussions, there is no merit in the submissions made by the learned counsel appearing for the appellants Board to interfere with the order passed by the learned single Judge. Hence, the writ appeals are dismissed confirming the order of the learned single Judge. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

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Chennai.

2.The Executive Engineer,
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Judgment made in
W.A(MD)No.1233 to 1235 of 2014
20.01.2021

VB (04.02.2021) 4P 3C

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