



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.7918 OF 2015

AND

W.P.NO.17588 OF 2019

W.P.No.7918 of 2015

1.Federation of Tamil Nadu Electricity Board,
Pensioners' Associations (Regd.No.11/1998)
Rep.by General Secretary,
Plot No.87-D2, Ramyam Apartments,
Nehru Street, Alwarthirunagar,
Chennai - 600 087.

2.A.Araichiyapillai

3.S.Narasimman

4.T.E.Narasimhan

5.T.E.Murali

...Petitioners

Vs

The Secretary,
Tamil Nadu Generation & Distribution,
Corporation Ltd.,
144, Anna Salai, Chennai-600 002.

...Respondent

W.P.No.17588 of 2019

V.Lenin

...Petitioner

Vs.

The Secretary,
Tamil nadu Generation & Distribution
Corporation Ltd., (TANGEDCO),
144, Anna Salai, Chennai-600 002.

...Respondent

PRAYER in 7918 of 2015 : This Writ Petition is filed under Article 226 of the Constitution of India praying for an issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent dated 9.12.2014 in Letter No.81679/ A3/A31/ 2014-1 and quash the same as illegal and without jurisdiction



and consequential direction to the respondent Corporation for revision and enhancement of minimum pension payable to pensioners in the category of Executive Engineers and equivalent Categories by placing the Scale of Pay in the Pay Band IV at Rs.38,200/- - Rs 67,000/- with suitable Grade Pay and pay the arrears of pension from 1.12.2007 and other attendant benefits.

PRAYER in 17588 of 2019 : This Writ Petition is filed under Article 226 of the Constitution of India praying for an issuance of a Writ of Certiorarified Mandamus Calling for the records relating to the impugned order passed an order in letter No. 81679/ A3/ A31/ 2014-1 dated 09.12.2014 on the file of the respondent quash the same and direct the Respondent Corporation to fix the pay Band 4 for the petitioner who retired from service as Deputy Financial Controller with effect from 01.12.2007 with arrears and attendant benefits on par with the category of Superintending Engineers and equivalent categories in Class I service.

For Petitioner No.1 : Mr.A.R.Suresh
in W.P.No.7918 of 2015 For Mr.V.Elangovan

For Petitioner Nos.2 to 5 : Mr.Balan Haridas
in W.P.No.7918 of 2015 for Mr.V.Elangovan

For Petitioner : Mr.S.Doraisamy
in W.P.No.17588 of 2019

For Respondent : Mr.S.Silambanan
in both cases Additional Advocate General
Assisted by Mr.P.Subramanian
(For TANGEDCO)

COMMON ORDER

The order of rejection rejecting the claim of the writ petitioners for revision of scale of pay is under challenge in the present writ petitions.

2.The first writ petitioner is Federation of Tamil Nadu Electricity Board Pensioners' Association. In respect of revision of scale of pay of pensioners, it relates to individual grievance and therefore, the writ petition filed by the first writ petitioner cannot be considered as the individual service particulars of the officials are to be considered for grant of revision of pay. However, the second, third, fourth and fifth petitioners are the individual pensioners, who have also joined along with the first petitioner association.

3.The petitioners state that they were working in the cadre of Executive Engineer. They have served in the cadre of



Executive Engineers and other equivalent categories in Class - I service in the respondent Corporation. The other equal categories are Deputy Financial Controller, Deputy Chief Internal Audit Officer, Deputy Chief Chemist, Personal Officer, Senior Administrative Officer, Stores Controller, Deputy Director of Sports and Under Secretary.

4.The learned counsel for the petitioners made a submission that pursuant to the Government Order issued in G.O.Ms.234, Finance (Pay Cell) Department, dated 01.06.2009, the respondent board issued (Permanent) B.P.(Ch) No.224, Secretariat Branch, dated 21.11.2009, effecting revision of wages with effect from 01.12.2007. The revision was effected on par with the revision granted to the Government Officials in G.O.Ms.No.234, dated 01.06.2009.

5.The grievances of the writ petitioners are that the categories, in which, they served in TANGEDCO is under Division VI (Accounts) of the Tamil Nadu Electricity Board Service Regulations. The post of Deputy Financial Controller is classified as category - 4 and the Deputy Chief Internal Audit Officer is category - 5. Relying on the said categorization in the service regulations, the learned counsel for the petitioners reiterated that the grade pay and the revision of pay granted to the writ petitioners are not in consonance with the pay band as applicable with reference to G.O.Ms.No.234, which was adopted by the 4th respondent in B.P.No.224, dated 21.11.2009. In short, the petitioners are claiming pay band 4 (PB 4) for effecting revision of scale of pay + grade pay instead of pay band 3 (PB3), which had been granted to these petitioners. It is contended that pay band 3 is applicable for officials served in class - II and the petitioners had served in class - I and therefore, pay band 4 is to be applied for the purpose of effecting revision of scale of pay. It is contended that even the minimum scale of pay applicable to pay band 4 has not been fixed to the writ petitioners. Therefore, the petitioners have submitted a representation to grant atleast minimum scale of pay granted to the class - I officers in pay band 4 (PB4) and the said request was rejected by the respondents and therefore, the petitioners have filed the present writ petitions.

6.The learned Additional Advocate General appearing on behalf of the respondent TANGEDCO made a submission that the counter reveals the categorization in a clear manner, more specifically, in paragraph 13, accordingly, Government, pay band 3 is grouped in the revised pay band of Rs.15,600-39,100 and the grade pay is starting from Rs.5,400/- to 7,700/-. The pre revised scale of pay for the same starts from Rs.8,000-275-13,500 to Rs.12,750-375-16,500/- likewise, pay band 4 starts from Rs.37,400-67,000/- and the grade pay is from Rs.8,700/- to



Rs.10,000/-. The comparison in the scales of pay in the prerevised scales of pay and the revised scales of pay band are as tabulated below:

Pay Band - 3

S. No.	Pre-revised Scales in Government.	Revised pay in Government	Pre-revised Scales in TANGEDCO	Revised pay in TANGEDCO
1.	8000-275-13500	15600-39100+5400G.P.	8100-275-15525 (AAO's)	15700-39100+5400 G.P.
2.	9100-275-14050	15600-39100+5700 G.P	9275-300-17325 (AEE's)	15700-39100+6100 G.P.
3.	9650-300-15050	15600-37100-6000 G.P.	9500-300-17600	15700-39100 + 6200 G.P.
4.	10000-325-16500	15600-39100 -6600 G.P.	11000-350-20450 (EE's/DFC's)	15700-39100 +7000 G.P.
5.	12000-373-16500	15600-39100-7600 G.P.	-	-
6.	12750-375-16500	15600-39100-7700 G.P.	-	-

Pay Band - 4

S. No.	Pre-revised Scales in Government.	Revised pay in Government	Pre-revised Scales in TANGEDCO	Revised pay in TANGEDCO
1.	14300-400-18300	37400-67000-8700 G.P.	15100-425-21900 (SE's)	38200-67000+8700 G.P.
2.	15000-400-18600	37400-67000-8800 G.P.	-	-
3.	16400-450-20000	37400-67000-8900 G.P.	17600-500-25100 (CE's)	38200-67000+9500 G.P.
4.	17400-500-21900	37400-67000-10000 G.P.	-	-

7.Relying on the above tabular column, it is contended that the pay drawn in the pre revised scale at Rs.14,300-400-18,300/- in Government in the incremental stage of Rs.400/- alone was revised at Rs.38,200/- - 67,000 +8,700/- G.P. Similarly, the prerevised pay of Rs.15,100/- - 425 - 21,900/- drawing the incremental stage of Rs.425 /- in TANGEDCO alone was revised as Rs.38,200/- 16,000/- + 8,700 G.P.



8.The petitioners, who had retired after 01.12.2007 were drawing Rs.11,000-350-20,450/- in the pre revised pay and have been fixed with enhanced pay of Rs.15,700/- - 39,100/-+7000 G.P. There is no disparity or disproportionate increase in the pay band and grade pay adopted in TANGEDCO while fixation of pay during 01.12.2007 wage revision in the above category of employees.

9.Considering the grievances advanced by the petitioners and the defence set out by the respondents, let us consider the scope of B.P.No.224 dated 21.11.2009. Annexure 1 to the board proceedings denote "existing and revised scale of pay". Relevantly, certain categories are brought under pay band 3 (PB3) and certain categories are brought under pay band 4 (PB4) based on the hierarchy of post and the details in the Annexure 1 to the board proceedings reads as under:

Sl. No.	Pay Band No	Category	Existing Scale of Pay	Revised Scale of Pay + Grade Pay
1 2 3 4 5 6 7 8	PB3	Deputy Chief Chemist Deputy Chief Internal Audit Officer Deputy Financial Controller Executive Engineer Personnel Officer Senior Administrative Officer Stores Controller Under Secretary	11000-350-20450	15700-39100+7000
1 2 3 4 5 6	PB-4	Chief Internal Audit Officer Chief Medical Officer Deputy Secretary Financial Controller Senior Personnel Officer Superintending Engineer	15100-425-21900	38200-67000+8700

10. Pertinently, the categories in pay band 3 and pay band 4 are falling under Class I officers. Amongst Class I officers, two divisions are made in the board proceedings and beyond the said two divisions, another set of Class I officers are also granted with the pay band 4, i.e., the post of Chief Engineer and Chief Financial Control. Thus, three sets of officials categorized as Class I officers are given pay band 3 and pay band 4 respectively. However, even amongst the Class I officers,



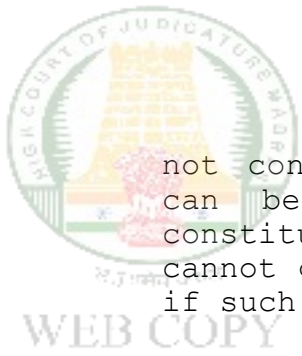
for instance, the post of Deputy Chief Internal Audit Officers is a feeder category to the post of Chief Internal Audit Officer. So also the post of Executive Engineer is the feeder category for the post of Superintending Engineer. Thus, the classification in the regulation may not have direct application with reference to the pay fixation made in accordance with the existing pay to a particular category or the officials.

11. In the present case, the existing scale of pay and revised scale of pay + grade pay was granted based on the categories and accordingly, pay band 3 (PB3) was granted to the petitioners and pay band 4 (PB4) was granted to the promotional categories and this being the method followed for revision of scale of pay as per the board proceedings issued in BP no.224, dated 21.11.2009, the Class I officers categories as made in the regulations may not have direct implication in respect of the fixation of pay, which was done in consonance with the revision of pay effected for the Government officials.

12. The learned counsel appearing on behalf of the petitioners further contended that the Class-I officers belong to homogeneous class and therefore, there cannot be any discrimination amongst Class - I officers and different scale of pay fixed for various Class-I officers itself is discrimination.

13. This Court is of the considered opinion that though categorisation is made as Class-I officers, the scale of pay has been fixed with reference to the posts concerned. Even amongst the Class-I officers, there are certain feeder categories for promotion to the higher post. If various cadets carrying different scales of pay are classified as Class-I officers and certain posts of Class-I officers are declared as feeder category for promotion to the higher post, which is also a Class-I officers, then the question of discrimination would not arise at all. The job responsibilities of the post concerned are taken into consideration by the competent authority while fixing the scale of pay.

14. The categorisation are made broadly for certain purposes and such categorisation cannot be wrongly understood in the matter of fixation of pay. In the present case, the respondent TANGEDCO in B.P.No.224, clearly demarcated the cadets with reference to existing and revised scales of pay. Accordingly, amongst the Class-I officers, the feeder categories are brought under the pay band - 3 and certain higher categories are brought under pay band - 4. Such classifications are available in various posts in Government Departments also. In the present case, it is not in dispute that the existing scale of pay and revised scale of pay are corresponding. Thus, the very claim set out in the writ petition is a new claim, which is otherwise



not contemplated under the board proceedings. Such new claims can be made before the pay commission or the committee constituted for the purpose of revision of scale of pay. Courts cannot grant a new claim, which is otherwise not contemplated or if such fixation is found to be wholly erroneous.

15.As far as the pension is concerned, it is based on the last drawn pay of the respective employees concerned. Once the revised scale of pay is granted and the last pay drawn is fixed, accordingly, the pension will be settled in favour of the officials concerned. This being the facts and circumstances, this Court is of the considered opinion that the claim set out in the writ petition is altogether a new set of claim which is sought for. Such claims cannot be entertained by the High Court nor any direction can be issued to fix the scale of pay in a particular manner. It is the prerogative of the employer to fix the scale of pay in a uniform manner in accordance with the pay rules. In the present case, B.P.No.224, dated 21.11.2009 has been issued adopting the Government fixation and as far as the pay band - 3 and 4 are concerned, the Class - I posts are classified based on the respective cadres. A cursory perusal of the classification reveals that certain feeder categories are fixed with the scale of pay applicable to the pay band - 3 and the promotion post/higher post are fixed with pay band - 4. This being the scope of the B.P.No.224, the petitioners could not able to establish any acceptable ground for the purpose of considering the relief as such sought for in the present writ petition.

16.Accordingly, the writ petitions stand dismissed. No costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

sms/sli

To

The Secretary,
Tamil Nadu Generation & Distribution,
Corporation Ltd.,
144, Anna Salai, Chennai-600 002.

+1cc to Mr.P.Subramanian, Advocate Sr.No.38379

+1cc to Mr.S.Doraisamy, Advocate Sr.No.38360

W.P.No.7918 of 2015 and
W.P.No.17588 of 2019

SVI (CO)
RVM(07/07/2022)