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W.P.Nos.28246 to 28250 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 11.07.2022**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P.Nos.28246 to 28250 of 2014

and

M.P.No.1 of 2014 [5 Mps] and M.P.No.1 of 2015 [5 Mps]

|                      |                                       |
|----------------------|---------------------------------------|
| S.Adhinarayanan      | ...Petitioner in W.P.No.28246 of 2014 |
| SP.Rajendran         | ...Petitioner in W.P.No.28247 of 2014 |
| K.S.Sankaranarayanan | ...Petitioner in W.P.No.28248 of 2014 |
| R.Jeyanthan          | ...Petitioner in W.P.No.28249 of 2014 |
| V.Durairaju          | ...Petitioner in W.P.No.28250 of 2014 |

Vs.

1.Tamil Nadu Generation and  
Distribution Corporation Ltd.,  
Rep.by its Chairman and Managing  
Director,  
144, Anna Salai, Chennai – 2.

2.The Chief Engineer/Personnel  
Tamil Nadu Generation & Distribution  
Corporation Ltd.,  
Administrative Branch, 144, Anna Salai,  
Chennai – 2.

3.The Superintending Engineer,  
TANGEDCO, Pudukottai EDC,  
Pudukkottai.

..Respondents in all W.Ps



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**Prayer in W.P.No.28246 of 2014 :** Writ Petition filed Under Article 226 of the Constitution of India, to issue a Certiorari, calling for the records of the 2<sup>nd</sup> respondent in connection with Memo No.003755/1/G.17/G.172/F.Pay Ano/2009-11, dated 22.09.2014 issued by the 2<sup>nd</sup> respondent to the 3<sup>rd</sup> respondent and quash the same.

**Prayer in W.P.No.28247 of 2014 :** Writ Petition filed Under Article 226 of the Constitution of India, to issue a Certiorari, calling for the records of the 2<sup>nd</sup> respondent in connection with Memo No.003755/1/G.17/G.172/2009-10, dated 22.09.2014 issued by the 2<sup>nd</sup> respondent to the 3<sup>rd</sup> respondent and quash the same.

**Prayer in W.P.No.28248 of 2014 :** Writ Petition filed Under Article 226 of the Constitution of India, to issue a Certiorari, calling for the records of the 2<sup>nd</sup> respondent in connection with Memo No.003755/1/G.17/G.172/2009-9, dated 22.09.2014 issued by the 2<sup>nd</sup> respondent to the 3<sup>rd</sup> respondent and quash the same.

**Prayer in W.P.No.28249 of 2014 :** Writ Petition filed Under Article 226 of the Constitution of India, to issue a Certiorari, calling for the records of the 2<sup>nd</sup> respondent in connection with Memo No.003755/1/G.17/G.172/F.Pay Ano/2009-12 dated 22.09.2014 issued by the 2<sup>nd</sup> respondent to the 3<sup>rd</sup> respondent and quash the same.



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**Prayer in W.P.No.28250 of 2014** : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Certiorari, calling for the records of the 2<sup>nd</sup> respondent in connection with Memo No.003755/1/G.17/G.172/F.Pay Ano/2009-8 dated 22.09.2014 issued by the 2<sup>nd</sup> respondent to the 3<sup>rd</sup> respondent and quash the same.

For Petitioners : Mr.K.Krishnamoorthy  
[in all W.Ps]

For Respondents : Mr.P.Subramanian  
For TANGEDCO  
[in all W.Ps]

### **COMMON ORDER**

The orders of refixation and consequential recovery are sought to be quashed in the present writ petitions.

2. The petitioners were the employees of the TANGEDCO and retired from service.

3. The grievances of the writ petitioners are that their pay was stepped up based on their representations in comparison with their juniors. In other words, the revision of pay was effected by stepping up the pay of the writ petitioners on par with their juniors. Subsequently, the Respondent-Board



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cancelled the stepping up of pay on the ground that the comparison was erroneous. The audit objection was raised and the said audit objection resulted in revision of pay and consequential recovery.

4. The learned counsel for the petitioners made a submission that the impugned orders have been passed without giving any show cause notice or opportunity to the writ petitioners. There was no misrepresentation on the part of the writ petitioners and they have made representations to step up their pay on par with their juniors and the benefits were granted. Subsequently, the said benefits granted were cancelled without giving any opportunity.

5. The learned counsel appearing on behalf of the respondents objected the said contentions by stating that the comparison made by the petitioners were found to be erroneous and there was an audit objection regarding the stepping up of pay granted to the petitioners and based on the said audit objection, the orders earlier passed, stepping up of pay were cancelled and the excess amount paid to the petitioners were sought to be recovered. Thus, there is no infirmity in respect of the orders impugned.



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6. This Court of the considered opinion that any order, affecting the pay or emoluments of the employee, must be issued only after affording an opportunity to the employee concerned. In the present cases, the respondents are unable to establish that the show cause notices were issued to the writ petitioners. That apart, the stepping up of pay was granted pursuant to the representations submitted by the writ petitioners. Thus, if at all, any error is identified, opportunity must be provided to the employee concerned.

7. The learned counsel for the petitioners brought to the notice of this Court that all the writ petitioners had already retired from service and now pensioners. This being the factum, the excess amount already paid, if any, cannot be recovered from the writ petitioners. However, the errors in the matter of fixation of pay can be corrected by the authorities after issuing show cause notice or opportunity to the writ petitioners.

8. Accordingly, the impugned orders of re-fixation and consequential recovery issued by the 2<sup>nd</sup> respondent in Memo No.003755/1/G.17/G.172/F.Pay Ano/2009-11, Memo No.003755/1/G.17/G.172/2009-



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10, Memo No.003755/1/G.17/G.172/2009-9, Memo  
No.003755/1/G.17/G.172/F.Pay Ano/2009-12, Memo

No.003755/1/G.17/G.172/F.Pay Ano/2009-8 are quashed. The respondents are directed to re-fix the correct scale of pay as applicable to the writ petitioners based on the pay Rules and Board proceedings in force by issuing a show cause notice and affording opportunity to the writ petitioners. However, the excess salary already paid to the writ petitioner cannot be recovered. If any amount of excess pay has already been recovered, the said amount is directed to be re-paid to the writ petitioners within a period of eight weeks from the date of receipt of a copy of this order.

9. With these directions, all the Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**11.07.2022**

Index : Yes  
Speaking order: Yes  
*kak/jeni*



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To

WEB COPY

1. The Chairman and Managing Director,  
Tamil Nadu Generation and  
Distribution Corporation Ltd.,  
144, Anna Salai, Chennai – 2.
2. The Chief Engineer/Personnel  
Tamil Nadu Generation & Distribution  
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Administrative Branch, 144, Anna Salai,  
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**S.M.SUBRAMANIAM, J.**

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