



W.P.(MD)Nos.4348 & 3881 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.4348 and 3881 of 2020

and

W.M.P.(MD)Nos.3655 and 3272 of 2020

W.P.(MD)No.4348 of 2020

1. K.Mariappan
2. T.Packiyarajan
3. M.Ganesan
4. K.J.Balakrishnan
5. S.Ayyar

... Petitioners

Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited
(TANGEDCO), (formerly TNEB),
Rep by its Chairman / Director,
144, Anna Salai,
Chennai – 600 002.

2. Tamil Nadu Electricity Board (TNEB),
Presently Known as Tamil Nadu,
Generation and Distribution Corporation Limited,
(TANGEDCO),
Represented by its Secretary,
144, Anna Salai,
Chennai – 600 002.

... Respondents



W.P.(MD)Nos.4348 & 3881 of 2020

WEB COPY

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in (Per) B.P.(Ch) No.235, dated 01.12.2009 on the file of the respondent No.2 in so far as excluding the merger of dearness relief of 50% from the pension of the petitioners in Clause 2 (e) and quash the same as illegal and consequently for a direction, directing the respondents to re-fix the pension of the petitioners, who have retired from service from 01.01.2006 to 30.11.2007 on par with State Government Employees by way of granting fitment weightage @ 40% of the Basic Pension of the petitioners including the effect of merger of 50% dearness allowance along with arrears and all other consequential benefits within the period stipulated by this Court.

For Petitioners : Mr. T.Lajapathy Roy

For Respondents : Mrs. M.Parameswari
Standing Counsel

W.P.(MD)No.3881 of 2020

1. V.Vellaiappan
2. R.Kasturi
3. K.Murugesan
4. P.Ngappan
5. V.Palanisamy
6. N.Gopal
7. P.Ramasamy
8. M.Saminathan



W.P.(MD)Nos.4348 & 3881 of 2020

9. A.Marathamuthu
10. C.Lakshmanan
11. V.Kannan
12. P.Rengasamy
13. A.Subramanianm
14. A.Iruthayaraj
15. N.Chandrasamy
16. U.Pitchai
17. V.Krishnan
18. K.Marappan
19. S.Periyannan
20. S.Subramanan
21. N.Desikachari
22. A.Raman
23. R.Ramasamy
24. S.K.Saravanan
25. M.Josephin
26. M.Nagararajan
27. K.Gopal Krishnan
28. P.R.Ragunathan
29. M.Dhakshnamoorthy
30. R.Karuppaiah
31. M.Mani
32. P.Arumugasamy
33. S.Padalingam
34. A.Moamad Masharudeen
35. J.Santhanam
36. R.Narasimalu
37. A.Patchamalai
38. V.Ilangovan
39. R.Mothilal
40. S.Ayyanar
41. M.Karrupa Pillai
42. R.Sundararaj
43. S.Karthikeyan



W.P.(MD)Nos.4348 & 3881 of 2020

44. E.Annakamu
45. S.Syed Abdul Subakhan
46. V.Subbaian
47. K.Rajappan
48. T.K.Subramanian
49. A.Ramadoss
50. P.Govindan
51. A.N.Marappan
52. P.Govindan Kutty
53. A.Sundaram
54. K.R.Chinnasamy
55. Vasthu K.Krishna
56. C.Ramasamy
57. K.Sugumaran
58. M.P.Iyyadurai
59. B.Subramanian
60. S.Subramanian
61. Mrs.K.Prema
62. Mrs.D.Padmavathi
63. C.Paramandam
64. G.Gandhi
65. B.Govindaraj
66. S.Kannappan
67. R.Rajaram
68. A.Shek Sulaiman
69. R.Venugopal
70. S.Jaganathan
71. J.Rajamani Pillai
72. K.Ramachandran
73. N.Kadar Basha
74. Mrs.K.Chellammal
75. A.Chinnasamy
76. Mrs.M.Mallika
77. Mrs.R.Mariathal
78. Mrs.Bemmuthai



W.P.(MD)Nos.4348 & 3881 of 2020

WEB COPY

79. Mrs. M.Dhanapackiyam
80. C.Palaniappan
81. S.K.Aruchami
82. K.Kaliyappan
83. Mrs.S.Mallammal
84. S.Ramuthai
85. P.Pappu
86. R.Kuppusamy
87. R.K.Rajaraman
88. N.Radhakrishnan
89. S.Govindasamy
90. M.Subramanian
91. Mrs.P.Kamalam
92. K.Krishnan
93. Mrs.S.Jeyalakshmi
94. A.Subulakshmi
95. T.Jeyaraman
96. R.Nachiyar
97. T.Annadurai
98. R.Indira
99. M.Vellaichamy

... Petitioners

Vs.

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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in (Per) B.P.(Ch) No.235 dated 01.12.2009 on the file of the second respondent insofar as excluding the merger of dearness relief of 50% from the pension of the petitioners in Clause 2 (e) and the consequential impugned order in Letter No.50449/A3/A32/2019-2 dated 16.11.2019 on the file of the second respondent and quash the same as illegal and consequently for a direction, directing the respondents to revise / re-fix the Pay Scale, Pensionary benefits of the petitioners by merging 50% Dearness Allowance along with the Basic pay of the Petitioners with effect from 01.01.2006 instead of 01.08.2006 and to provide all other consequential benefits and arrears on parity with order State Government Employees within the time period stipulated by this Court.

For Petitioners : Mr. T.Lajapathy Roy

For Respondents : Mr. M.Parameswari
Standing Counsel



W.P.(MD)Nos.4348 & 3881 of 2020

WEB COPY

COMMON ORDER

These writ petitions have been filed challenging the impugned order passed by the second respondent dated 01.12.2009, insofar as excluding the merger of dearness allowance of 50% from the pension of the petitioners in Clause 2(e) and the consequential impugned order of the second respondent dated 16.11.2019 and to quash the same and consequently direct the respondents to re-fix the pay scale and pensionary benefits of the petitioners, who have retired from service, on par with State Government Employees by way of granting fitment weightage @ 40% of the Basic Pension of the petitioners including the effect of merger of 50% dearness allowance along with arrears and all other consequential benefits.

2. The learned counsel appearing for the petitioners would submit that the petitioners are the retired employees of the respondent Corporation (TNEB). The Government of Tamil Nadu took a policy decision for merger of 50% dearness allowance with basic pay / pension with effect from 01.01.2006. The said benefit was extended to all the State Government



W.P.(MD)Nos.4348 & 3881 of 2020

employees as well as the retired pensioners. However, the said benefit was not extended to the Electricity Board employees like that of the petitioners. Hence, the petitioners and several Associations repeatedly made several representations to the respondents to extend the same benefit to the Board employees. Thereafter, the Board extended the benefit and issued an order for merger of 50% dearness allowance with basic pay / pension with effect from 01.08.2006. However, the petitioners have filed a writ petition in W.P.No.2658 of 2017 before this Court to extend the benefit from 01.01.2006. This Court, by order dated 19.09.2019, directed the second respondent in the writ petition to consider the representation of the petitioner, dated 30.11.2016 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Pursuant to the order passed by this Court, the impugned order dated 16.11.2019 has been passed by the second respondent, wherein the petitioners' request for merger of 50% dearness allowance with basic pay/pension with effect from 01.01.2006 was rejected, which is not sustainable one. Hence, he prayed for allowing these writ petitions.



W.P.(MD)Nos.4348 & 3881 of 2020

WEB COPY

3. Per contra, the learned Standing counsel appearing for the respondents would submit that the State Government have issued order for merger of 50% dearness allowance with basic pay/pension with effect from 01.01.2006. Based on the Government Order, the Unions/Associations have made representations to the respondent Board to extend the said benefit to the employees of the Board. Pursuant to which, the Board has taken a decision, considering the stringent financial position of the Board. The said policy decision was taken on the floor of the Assembly and the same was implemented by Board Proceedings in (Permanent) B.P.(FB).No.41, dated 31.08.2006 and hence, the claim made by the petitioners to implement the same with effect from 01.01.2006 on par with other State Government employees is not sustainable one. Hence, he prayed for dismissal of these writ petitions.

4. Heard the learned counsel for the petitioners and the learned Standing counsel appearing for the respondents.



W.P.(MD)Nos.4348 & 3881 of 2020

WEB COPY

5. The issue arise in these writ petitions is whether the petitioners are entitled for merger of 50% dearness allowance with basic pay/pension with effect from 01.01.2006. Admittedly, the State Government have decided to implement the merger of 50% dearness allowance with basic pay / pension to the Government employees with effect from 01.01.2006. However, due to stringent financial position, the respondent Electricity Board has not implemented the said benefit to the Board employees with effect from 01.01.2006 and based on the policy decision taken on the floor of the Assembly, they decided to implement the same to the Board employees with effect from 01.08.2006 onwards. This Court cannot interfere with the policy decision taken by the respondent Electricity Board, and grant the relief from 01.01.2006 on par with other State Government employees and it is for the Board has to take a policy decision in consultation with Government on the financial condition of the Board.



W.P.(MD)Nos.4348 & 3881 of 2020

6. In the result, these Writ Petitions are dismissed. No costs.

Consequently, the connected Miscellaneous Petitions are closed.

14.12.2022

NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

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WEB COPY



W.P.(MD)Nos.4348 & 3881 of 2020

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W.P.(MD)Nos.4348 and 3881 of 2020

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