



W.P.(MD) No.5095 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.5095 of 2020 and
WMP No.4446 of 2020

M.Swaminathapillai

... Petitioner

-VS-

1.The Chairman & Managing Director,
Tamil Nadu Generation Electricity
Distribution Corporation Ltd.,
144 Annasalai, Chennai 600 002.

2.The Chief Engineer Personnel
Tamil Nadu Generation Electricity
Distribution Corporation Ltd.,
144 Annasalai, Chennai 600 002.

3.The Superintending Engineer
Kanyakumari Electricity Distribution Circle,
Tamil Nadu Generation Electricity
Distribution Corporation Ltd.,
Nagercoil.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writs of Certiorarified Mandamus to call for the records of



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relating to the 1st respondent order in ref. Memo.No. 087896/G17/G171/2006-9 dated 16.04.2015 and relating to the 2nd respondent order in reference Lr.No.065157/170/G20/G202/2018 dated 02.02.2019 to quash the same and directing the respondents to fix the pay of the petitioner on par with his junior Sri.P.Ashokan on the date when the junior received higher pay.

For Petitioner : Mr.R.Thangasamy

For Respondents : Mr.S.Arivalagan

ORDER

The writ petition has been filed challenging the order of the 1st and 2nd respondents dated 16.04.2015 and 02.02.2019 respectively and for a direction to the respondents to fix the pay on par with his junior.

2. The case of the petitioner in nutshell is as follows:

The petitioner joined the Electricity Department on 06.01.1988 as Technical Assistant II. While he was in service, he was promoted as Junior Engineer Grade II on 08.09.1997; Junior Engineer Grade I on 03.12.2003 and he retired on 31.05.2018 as Junior Engineer Grade I. His Junior one P.Ashokan, whose rank is at Sl.No.29, whereas the petitioner was placed at



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S.No.25. His junior joined as Technical Assistant II on 15.06.1988. He was subsequently promoted as Junior Engineer Grade I and received a sum of Rs.5,950/-, whereas the petitioner received a sum of Rs.5775/-. Though the petitioner passed the electricity department test during May '1995, his junior has completed during May '1997. Therefore, the petitioner received incentive increment on 01.01.1995 and his junior received on 01.06.1997. Since there was a pay anomaly, to set right the same and to fix the pay on par with his junior, the petitioner sent a representation to the respondents. However, since the same has been rejected, he is before this Court with this petition.

3.The learned counsel for the petitioner would submit that admittedly one Ashokan is junior to the petitioner. The petitioner joined before his junior and hence, the petitioner's name found place at Sl.No.25, whereas his junior was placed at Sl.No.29, which clearly shows that the petitioner is senior to Ashokan. While so, since there is a pay anomaly since his junior was getting more pay as on 28.12.1997, to rectify the same, the petitioner made representation. Since the same was rejected vide impugned



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order, the learned counsel prays for appropriate direction.

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4. The learned standing counsel appearing for the respondents, by relying upon the counter affidavit, would submit that due to administrative reasons, the petitioner has joined much after his junior, ie., the junior was promoted as Junior Engineer and joined on 11.06.1997, whereas the petitioner joined only on 08.09.1997 and the annual increment for the junior falls on 1st April and for the petitioner, the increment falls on 1st July. As such there was no provision for claiming pay anomaly. It is also contended that the pay anomaly is not covered by any rule and orders followed in the department. It is also contended that at the time of promotion, the officials have to exercise an option regarding fixation of pay. However, the petitioner has not mentioned about the option opted either by him or by his junior. Hence, the representation was rightly rejected and no interference is warranted to the same and prays for dismissal.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents.



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6. The petitioner joined as Technical Assistant on 06.01.1988. His junior Ashokan joined on 15.06.1988, ie., after six months of the petitioner's appointment. Both were posted in the Nagercoil Division and they received same pay. Thereafter, their post was re-designated as Technical Assistant with effect from 01.12.1992 and thereafter both passed the departmental test in the years 1995 and 1997. Thereafter, the petitioner as well as his juniors promoted as Junior Engineer Grade I and joined duty on 02.12.2003, whereas Ashokan joined duty on 03.12.2003. The grievance of the petitioner is that there was pay parity between the petitioner and his junior Ashokan, therefore, a representation was made, which was rejected. The petitioner is not entitled to claim pay on par with his junior Ashokan, who obtained incentive increment on 28.12.1997, for which, the pay increased from 5775 to 5950/-, whereas the petitioner's pay has not been increased in the cadre of Junior Engineer Grade I for claiming pay parity on par with Ashokan is not sustainable. A perusal of the impugned order also reveals that the petitioner joined as Junior Engineer Grade II on 08.09.1997, whereas his junior Ashokan joined much before the petitioner, ie., on



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11.06.1997 and hence, their increment falls on 1st July and 1st April respectively. Hence, there is no illegality and infirmity in the order impugned and no interference is warranted to the impugned order. Accordingly, this writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

15.12.2022

Index : Yes/No

Internet : Yes

RR

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M.DHANDAPANI, J.

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