



W.P(MD)Nos.10682 & 14582 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.10682 & 14582 of 2020

and

W.M.P(MD)No.9399 of 2020

W.P(MD)No.10682 of 2020:

- 1.K.Ahilan
- 2.B.Gothandaraman
- 3.S.Johnson
- 4.L.Bennet Dod Singh
- 5.N.Gunasekaran
- 6.S.Murugadhas
- 7.C.Rengarajan
- 8.S.Rajendran
- 9.N.K.Janakiram
- 10.M.Maria Savarimuthu
- 11.S.Navaneethan
- 12.A.Prathaban
- 13.D.Prabusankar
- 14.T.Ragunath
- 15.M.Rajakumar
- 16.M.Singaram
- 17.T.Rajalingam

... Petitioners

Vs

- 1.The Secretary,
Municipal Administration and
Water Supply Department,
Government of Tamil Nadu,
Secretariat,



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Fort St.George,
Chennai.

2.The Secretary,
Finance Department,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai.

3.The Managing Director,
Tamil Nadu Water Supply and
Drainage Board,
No.31, Kamaraj Salai,
Chepauk,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent proceeding Letter No.8533/WS.3/2019/9 dated 07.07.2020 and quash the same as illegal as devoid of merits and direct the respondents to extend the benefits of revised pay scale from Rs.37,400 to Rs.67,000 plus GP Rs.8,900 to Rs.37,400 to Rs.67,000 plus GP Rs.9,500 to the Chief Engineers of Tamil Nadu Water Supply and Drainage Board Department on par with Chief Engineers of Government Department as per Government Order vide G.O.(Ms) No. 256 Finance Department (Pay Cell) dated 26.08.2010 based on the recommendation of one man commission on sixth pay commission report with 24 precentage of compounded interest from 26.08.2010.

For Petitioners : Mr.Raja.Karthikeyan

For Respondents : Mr.A.K.Manikkam
Special Government Pleader
for R.1 & R.2



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W.P(MD)Nos.10682 & 14582 of 2020

Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Satheesh
Standing Counsel for R.3

W.P(MD)No.14582 of 2020:

- 1.V.Mathivanan
- 2.S.Sankaran
- 3.S.S.Vasan
- 4.N.Gopal
- 5.L.Paneerselvam
- 6.K.Alagarsamy
- 7.K.Elangovan
- 8.R.Dorai
- 9.M.Gopal Sankar
- 10.C.Paramasivam
- 11.S.Rathinavelu
- 12.P.Gopalakrishnan
- 13.A.Thirumurthi
- 14.P.Mohanasundaram
- 15.R.Ganesh
- 16.K.Murugesan
- 17.M.Madhiyalagan
- 18.K.Elangovan
- 19.S.N.Ganesh Babu
- 20.R.Annamalai
- 21.S.Manivannan
- 22.P.Veeravijayan
- 23.M.V.Krishnamoorthy
- 24.K.Perumal
- 25.B.Kumar
- 26.K.Subramaniam
- 27.P.R.Sundararajan

... Petitioners

Vs



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1.The Secretary,
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Chennai.

2.The Secretary,
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3.The Managing Director,
Tamil Nadu Water Supply and
Drainage Board,
No.31, Kamaraj Salai,
Chepauk,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to extend the benefits of revised pay scale from Rs.37,400 – 67,000 plus GP 8,900 to Rs. 37,400 – Rs.67,000 plus Gp Rs.9500 to the Chief Engineers of Tamil Nadu Water Supply and Drainage Board Department on par with Chief Engineers of Government Department as per Government order vide G.O(Ms)No.256 Finance Department (Pay Cell) dated 26.08.2020 based on the recommendation of one man commission on sixth pay commission report based on the recommendation of one man commission with 24 percent of compound interest from 26.08.2020.



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For Petitioners : Mr.Raja.Karthikeyan
For Respondents : Mr.A.K.Manikkam
Special Government Pleader
for R.1 & R.2

Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Satheesh
Standing Counsel for R.3

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned Additional Advocate General assisted by the learned Standing Counsel appearing for the third respondent.

2. The writ petitioners had served in Tamil Nadu Water Supply and Drainage Board (TWAD) as Chief Engineers. They have since retired from service. Their grievance is that the pay benefit given by the Government in favour of retired Chief Engineers in Government Service was not extended to them. They submitted representations, but the same were rejected by the impugned order dated 07.07.2020. Challenging the same, these writ petitions have been filed.



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3. The learned counsel appearing for the writ petitioners reiterated all the contentions set out in the affidavits filed in support of the writ petitions and called upon this Court to grant relief as prayed for. He placed particular reliance on Regulation 58 of TWAD Board Service Regulations.

4. The respondents filed detailed counter affidavit and the learned Additional Advocate General took me through its contents. He submitted that the impugned order does not warrant any interference and he pressed for dismissal of both the writ petitions.

5. I carefully considered the rival contentions and went through the materials on record.

6. The Government constituted a One-Man Commission vide G.O(Ms)No.444 Finance (pay Cell) Department dated 09.09.2009 to examine anomalies and the consequences of the implementation of the recommendation of the Official Committee, 2009. It made certain recommendations and the same were also implemented vide G.O(Ms)No.256 Finance (Pay Cell) Department dated 26.08.2010. Paragraph 2 of the said Government Order reads as follows:



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“2) The scale of pay revised under column (4) against Serial No.1 above shall be applicable to all Head of Departments (Directors) and all Chief engineers including Engineer-in-Chief whose existing pay scale is Rs.37400 – 67000 + Grade Pay of Rs.8,900/-”

7. The petitioners' admittedly had served TWAD Board as Chief Engineers. The petitioners demand is that the very same benefit should be extended to them also. Regulation 58 of Service Regulations is as follows :

*“58. Pay, allowance, leave, leave salary, pension and other conditions of service.- The fundamental Rules, The Madras Leave Rules and the Manual of Special Pay and Allowances and the Pension Code as amended from time to time in so far as they may be applicable and expect to the extent expressly provided in these regulations, shall **Mutatis Mutandis** apply to the members of the Board Service in the matter of their pay, allowances, travelling allowances, leave, leave salary and other conditions of service. The powers assigned to the Board and the powers assigned to the Head of the Department under the Fundamental Rules shall be exercised by the Chief Engineer in the case of Engineering and other staff under his control and by the Secretary in the case of the Board's Secretariat...”*



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8. The question that calls for consideration, is whether the benefit that was given to serving and retired Chief Engineers in Government Services should be automatically extended to the petitioners also.

9. Regulation 58 of Service Regulations is not worded in absolute terms. It uses expression “in so far as they may be applicable and except to the extent expressly provided in these regulations...”. It is seen from the materials enclosed by TWAD Board that whenever pay revisions are made, in order to make them applicable to TWAD Board employees, special proceedings are issued adopting the same. If as contended by the learned counsel appearing for the petitioners, the applicability is automatic, then there is no need for issuing adoption proceedings. For instance, my attention is drawn to G.O(Ms)No.200 Finance (BPE) Department dated 06.05.1998 which deals with the applicability of Fifth Central Pay Commission to the employees of State Owned Corporations / Boards. The guidelines clearly indicate that depending on the financial position of the Corporation / Board and the pay structure prevailing, the Board may decide and make its recommendations as to whether the revised scales of pay for their employees should be applicable with prospective effect or retrospective effect. The Board of Directors were called upon to analyse the financial implications with reference to their ability to meet the additional financial commitment from their internal generation of funds. That is why, in



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the subsequent years, specific proceedings has been issued formally adopting the pay revisions.

10. The learned Additional Advocate General appearing for the respondents would categorically state that the Board had not formally adopted One-Man Commission recommendations referred to above. When the Board of Management of TWAD Board had not formally adopted the pay revisions made in the case of Chief Engineers of the Government, the petitioners cannot, as a matter of right, demand. Merely because the other corporations and undertakings have adopted the aforesaid pay revisions, it is not necessary that the TWAD Board should also adopt similar proceedings.

11. Of course, an argument was also advanced by the learned Additional Advocate General that the issue essentially boils down to the question of equivalence. He relied on a few decisions to show that this is not for this Court to declare that the Chief Engineers working in TWAD Board are discharging similar duties and responsibilities of Chief Engineers functioning in Government Departments or other Corporations. I refrain from going into the said issue. If their pay scale has been identical, then this argument advanced by the learned Additional Advocate General may not be sound. However, I sustain the impugned order on the ground that since adoption proceedings have not



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been passed by the Board, the present writ petitions will not lie. The writ petitions are dismissed.

12. I have to decline relief only based on the factual position that is prevailing as of now. If the Board passes any resolution in future accepting G.O(Ms)No.256 dated 26.08.2010 or the Government accepts the proposals said to have been sent by the Board, then of course the petitioners' cause of action will revive. No costs. Consequently, connected miscellaneous petition is closed.

23.11.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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