



W.P.(MD)No.10773 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.10773 of 2015

K.Radhakrishnan

... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Generation and Distribution Corporation Limited,
9th Floor,
No.144, Anna Salai,
Chennai 600 002.

2.The Deputy Chief Internal Audit Officer, A/C,
Audit Branch, Madurai Region,
TANGEDCO, K.Pudur,
Madurai 625 007.

3.The Executive Engineer,
Oddanchathiram Division,
TANGEDCO,
Oddanchathiram,
Dindigul District 624 619.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of re-fixation of pay, without notice in LR.No.2679/742/F.34/F.348/15, dated 21.05.2015, on the file of the respondent No.2 and quash the same as illegal and consequently to direct the respondents to re-fix the pay scale as per the Audit Slip No.27, dated 30.08.2011, within the time stipulated by this Court.

For Petitioner : Mr.G.Karthick
for Mr.T.Lajapathi Roy
For Respondents : Mr.S.Arivalagan

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of re-fixation of pay, without notice, in LR.No.2679/742/F.34/F.348/15, dated 21.05.2015, on the file of the second respondent and quash the same and consequently direct the respondents to re-fix the pay scale, as per the Audit Slip No.27, dated 30.08.2011.



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2. The learned counsel for the petitioner submitted that the petitioner was recruited in the post of Training Helper and appointed on 08.01.1993 and his service was regularised on 01.09.1994 in the post of Helper. In the internal selection, he was selected and appointed as an Assessor on 05.09.1995. He was awarded with selection grade in the post of Assessor on completion of 10 years of service on 04.05.2004. Due to medical reasons, he was given conversion of his post of Assessor into the post of Junior Assistant on 16.11.2009. The posts of Junior Assistant and Assessor are equal cadre. While fixing his pay, the pay was not fixed properly. The Assistant Audit Officer from the office of the second respondent fixed an order of pay fixation vide Audit Slip No.27, dated 30.08.2011, fixing the pay scale as on 01.04.2011 as Rs.12,350/- + 2,700/-. However, the amount was not disbursed to him. In the mean while, another Assistant Audit Officer from the office of the second respondent passed a pay fixation order vide Audit Slip No.2, dated 23.05.2012, reducing the grade pay from Rs.2,700/- to Rs.2,200/-. Before reducing the grade pay from Rs.2,700/- to Rs.2,200/-, no notice was



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given to the petitioner. Reducing the grade pay without affording an opportunity to the petitioner is *per se* illegal. Therefore, this writ petition.

3. The learned counsel appearing for the respondents conceded that no notice was given to the petitioner, before reducing the pay of the petitioner.

4. Considered the rival submissions and perused the records.

5. The learned counsel for the petitioner has produced the judgment of this Court in W.A.(MD).Nos.86 and 87 of 2013, wherein, under similar circumstances, the re-fixation of pay, without giving notice to the person, was set aside and direction was issued to consider the representation of the petitioner, on merits and in accordance with law. It is observed in paragraph No.15 as follows:

“15. Admittedly, re-fixation of scale of pay was done as early as on 22.10.1999 and 28.12.1999 respectively and nearly after 13 years, without putting the writ petitioners/appellants on notice, their scale of pay has



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been refixed on the ground that their junior S.Annamalai was drawing higher scale of pay, much earlier than that of the writ petitioners/appellants. The refixation of pay has been done without putting them on notice, affecting the civil right of the appellants/writ petitioners. In all fairness, the third respondent ought to have put them on notice, before passing the said order. But, admittedly it has not been done, for the reason that the impugned orders do not disclose the notice or opportunity have been provided to them before passing the order.”

6. The learned counsel for the petitioner submitted that the respondents may be directed to give notice to the petitioner and pass orders.

7. Admittedly, in this case, there is no notice given to the petitioner before revising / reducing his grade pay. Therefore, the re-fixation of pay without notice to the petitioner in LR.No.2679/742/F. 34/F.348/15, dated 21.05.2015 is set aside and the second respondent is directed to give notice on re-fixation to the petitioner and pass orders, in the manner known to law. This exercise should be completed within a



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period of four weeks from the date of receipt of a copy of this order.

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Accordingly, this Writ Petition is disposed of. No costs.

04.07.2022

Internet: Yes

Index :Yes/No

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To

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
TNSTC Head Office,
No.27, Railway Station New Road,
Kumbakonam.



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G.CHANDRASEKHARAN, J.

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Order made in
W.P.(MD)No.10773 of 2015

Dated:
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