



W.P.Nos.4114, 4115 & 4116 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HONOURABLE MR. JUSTICE Dr.D.NAGARJUN

W.P.Nos.4114, 4115 & 4116 of 2009

and

M.P.Nos.1, 1, 1, 2, 2 & 2 of 2009

D.Chinnaperumal ... Petitioner in W.P.No.4114/2009

C.Veluchamy ... Petitioner in W.P.No.4115/2009

C.Rajamani ... Petitioner in W.P.No.4116/2009

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-2.

2. The Chief Internal Audit Officer,
Board Office Audit Branch,
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-2.

3. The Deputy Chief Internal Audit Officer,
Board Office Audit Branch,
Tamil Nadu Electricity Board,
Regional Office, Coimbatore Region,
Coimbatore.

4. The Registrar,
Annamalai University,



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Annamalai Nagar,
Chithambaram.

... Respondents in all W.Ps.

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Prayer in W.P.No.4114/2009:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records of the impugned order passed by the 2nd respondent and forwarded by the 3rd respondent in Memo No.05532/172/F.1/F.12/2009-1 dated 19.02.09 and quash the same.

Prayer in W.P.No.4115/2009:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records of the impugned order passed by the 2nd respondent and forwarded by the 3rd respondent in Memo No.05532/172/F.1/F.12/2009-10 dated 19.02.09 and quash the same.

Prayer in W.P.No.4116/2009:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records of the impugned order passed by the 2nd respondent and forwarded by the 3rd respondent in Memo No.05532/172/F.1/F.12/2009-6 dated 19.02.09 and quash the same.

For Petitioner in
W.P.No.4114/2009 : Mr.S.N.Ravichandran

For Petitioners in
W.P.Nos.4115 & 4116/2009 : Mr.N.S.Sivakumar

For Respondents in all W.Ps. : Mr.K.Raj Kumar



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COMMON ORDER

The writs on hand have been filed aggrieved by the orders passed by the respondents, vide memo dated 19.02.2009 taking away the increments granted in favour of the petitioners.

2. The facts in brief according to the affidavit filed along with the petitions are that the petitioners were working in Tamil Nadu Electricity Board as Junior Auditors. They have completed their Degree in Arts Stream. They passed Accounts Test for Sub-ordinate Officers Part-I, Departmental Test-I and were promoted to the post of Auditor. Thereafter, all the three petitioners passed B.Com Degree from the 4th respondent Annamalai University in the year 2007, 2007 and 2006 respectively. Basing on the said degree granted by the 4th respondent Annamalai University, the petitioners were granted two incentive increments of Rs.450 with effect from 30.12.2006 as per B.P.(Board Proceedings) Ms.No.750 dated 30.04.1979.

3. However, as per the submissions of the first respondent, the second respondent has passed the impugned orders vide memo dated



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19.02.2009, discontinuing the two advanced incentive increments sanctioned to the petitioners and that the petitioners were also informed that the incentive increments already paid to the petitioners will be recovered as arrears. Aggrieved by the same, the writ petitions are filed.

4. Heard both sides and perused the records.

5. It is submitted by the learned Counsel for the petitioner that from the date of acquiring the qualification of B.Com Degree from the 4th respondent Annamalai University as per the Board Proceedings Ms.No. 750 dated 30.04.1979, the petitioners are entitled for advanced incentive increments. It is further submitted that many employees who have obtained B.Com Degree from the 4th respondent Annamalai University were granted two advanced incentive increments and that the decision of withdrawing the advanced incentive increments was taken without even giving any notice to the petitioners.

6. The learned Assistant Government Pleader for the respondent submitted that the petitioners have obtained one year B.Com decree by way of Distance Education and the same is not equivalent to the regular 3 years



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B.Com Degree. Thereby, advanced incentive increments which were be granted to the employees who obtained regular 3 year B.Com degree will not be extended to the persons who obtained 1 year B.Com degree by way of distance mode, including the petitioners herein.

7. In order to obtain a 3 years Degree by regular mode one has to attend the college for a period of 3 years by taking leave from the employment, if he is already employed, and if he is not employed, he has to spend 3 years of his life for studying the graduation. There by, incentive increments are being granted for acquiring higher qualification. The incentive increments are granted to encourage the employees to acquire additional qualification in the field in which the employee is working. The petitioners were working as Assistant Audit Officer and considering the nature of work being discharged by them, B.Com degree is considered as higher qualification in relation to the nature of work. However, according to the respondent Board, the persons who obtained degree of B.Com in one year by way of a distance mode are not entitled for incentive increments.

8. It is submitted by the learned counsel for the petitioner that the Board proceedings in respect of grant of incentive increments will not



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make any distinction between the degree obtained by way of 3 years regular course and a degree obtained by one year distance mode. However, it is submitted by the learned counsel for the respondent Board that since the one year degree, which was being offered without any basic education by way of distance mode was banned, the 4th respondent university stopped offering such kind of courses.

9. It is submitted by the learned counsel for the petitioners that the petitioners have submitted representations to the respondents 1 and 2 seeking to reconsider the decision but the said representations have not been attained by the respondent Board.

10. It is also submitted by the counsel for the respondents that at the time of filing of these petitions, this Court has granted interim directions staying the impugned orders and thereby the respondent Board has not recovered any amount and also that the petitioners were paid the the incentive increments until their retirement and that their retirement benefits have already been settled without any break in spite of the pendency of this writ petition. The learned counsel for the respondent Board has fairly submitted that if a direction is given to the respondents 1 to 3 to consider



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the representations given by the petitioners, the 2nd respondent Board will take a decision appropriately.

11.In respect of the recovery to be made in this case, this Court in W.P.No.24004 of 2016 has passed orders and the relevant paragraphs are extracted as follows:

“i) the Petitioner shall submit her explanation to the show cause notice, which is impugned in the Writ Petition, if not done already, to the concerned authority by 31.07.2022;

ii) in the event of not being satisfied with the explanation submitted by the petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner to explain her position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgement ; and

iii) if any adverse decision is taken, the Petitioner may pursue legal remedies in accordance with law and no view has been expressed by the Court on the merits of the controversy involved in the matter.”



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12. In view of the submissions made by both the sides and considering the facts that the petitioners have already retired and even on retirement, all the retirement benefits have already been settled, the writ petitions stand **disposed of** directing the respondents 1 and 2 to dispose of the representations filed by the petitioners before them as quickly as possible, preferably within a period of eight (8) weeks from the date of the receipt of a copy of this order. In case, the said representations are not found in the office of the respondents, the petitioners are at liberty to file a fresh application before the respondents 1 to 3 within a period of 2 weeks from the date of receipt of a copy of this order and on filing of the said representations, they should be disposed of the same within a period of six (6) weeks thereafter.

13. It is needless to say that at the time of considering the representations of the petitioners, the respondent Baord has to consider the issue sympathetically in view of the fact that the petitioners have already retired and that as on the date of granting of the incentive increments, there was no distinction between the degree obtained by a person after completion of 3 years of regular studying with the degree obtained by a person being offered by the 4th respondent in a period of 1 year through



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distance mode. The interim orders passed by this Court will continue to be in force until the representations of the petitioners are disposed of by the 2nd respondent Board.

14. Accordingly, with the above directions, this writ petition stands **disposed of**. No costs. Consequently, connected miscellaneous petitions are closed.

17.10.2023

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To

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Tamil Nadu Electricity Board, 144, Anna Salai, Chennai-2.

2. The Chief Internal Audit Officer,
Board Office Audit Branch, Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-2.

3. The Deputy Chief Internal Audit Officer,
Board Office Audit Branch, Tamil Nadu Electricity Board,
Regional Office, Coimbatore Region,
Coimbatore.

4. The Registrar,
Annamalai University,
Annamalai Nagar, Chithambaram.



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Dr.D.NAGARJUN. J.,

(sha)

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