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W.A.No.293 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.293 of 2018 and
C.M.P.No.2223 of 2018

1.The Chairman
Tamil Nadu Generation and
Distribution Corporation Ltd.,
TANGEDCO (TNEB), No.144,
Anna Salai, Chennai – 600 002.

2.The Regional Chief Engineer,
Coimbatore Region,
TANGEDCO,
Coimbatore 12.

... Appellants

Vs.

1. K.Bhaskaran (Died)

2.Komalam Bhaskaran

3.Jyothi Mohandas

4.B.Jayakrishnan

... Respondents

[R2 to R4 are brought on record as
LRs of deceased sole respondent
vide order dated 06.03.2023 in
C.M.P.Nos.4474 of 2023]

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 16.10.2015 made in M.P.No.1 of 2015 in
W.P.No.11394 of 2013 amended on 21.09.2016.



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For Appellant : Mr.K.Rajkumar

For Respondents : R1 – Died

: Mr.K.Raja for RR 2 to 4

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This writ appeal has been filed against the clarificatory order issued by the learned Single Judge in M.P.No.1 of 2015 in W.P.No.11394 of 2013.

2. The 1st respondent was originally working at the appellant Corporation and after retirement what was the retiral and pensionary benefits is entitled to concern, it is governed by Board Proceedings time and again issued based on the Government Order already issued in this regard.

3. The relevant Government Order was G.O.Ms.No.579 Finance (Pension) Department dated 15.09.2006 which was sought to be extended to the employees of the appellant TANGEDCO.



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4. In this context, already the Board Proceedings had been issued in B.P.No.2 dated 01.02.2008 under which those who retired from 01.06.1960 till 31.05.1988 are entitled to get the benefits as per G.O.Ms.No.579 dated 15.09.2006.

5. Insofar as the employees who retired after 01.06.1988 till 31.12.1995, the benefit of G.O.Ms.No.363 Finance (PGC) Department dated 23.08.2013 had been extended by issuance of B.P.No.72 dated 22.02.2014.

6. The learned Judge who allowed the said writ petition directed the TANGEDCO to extend the benefits to the retired employees as per G.O.Ms.No.363 dated 23.08.2013 and B.P.No.72 dated 22.02.2014.

7. However, subsequently a clarification petition had been filed by the employee in M.P.No.1 of 2015 which came to be decided by the learned Judge through the impugned order 16.10.2015. In the said order in para 4 the learned Judge had clarified and directed the TANGEDCO to provide the benefit to the retired employee as per G.O.Ms.No.363 and B.P.No.2 dated 01.02.2008.



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8. Aggrieved over the same, only this appeal has been directed by the TANGEDCO.

9. Heard Mr.K.Rajkumar, learned Standing Counsel appearing for the appellant TANGEDCO.

10. For the period from 01.06.1960 till 31.05.1988 whoever retires, the benefit under the G.O. referred to above with B.P.No.2 would apply and they are entitled to get such benefits.

11. However, for those who retired since 01.06.1988 till 31.12.1995, the benefit had been extended on the basis of G.O.Ms. No.363 dated 23.08.2013 in B.P.No.72 dated 22.02.2014.

12. When that being so, since the employee respondent retired from service on 31.08.1988 is squarely falls under the second category i.e. the period from 01.06.1988 till 31.12.1995. For the said period, the benefits have to be extended only under G.O.Ms.No.363 and B.P.No.72 and not by G.O.Ms.No.363 with B.P.No.2 as clarified by the learned Judge through the impugned order.



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13. Therefore, the said clarification made by the Writ Court, at the instance of the employee respondent, is not in consonance with the Government Orders as well as the Board Proceedings issued, therefore we are inclined to interfere with the said order which is impugned herein, in the result, the following orders are passed in this writ appeal:

(i) That the respondent employee would be entitled to get the benefit under G.O.Ms.No.363 Finance (PGC) Department dated 23.08.2013 along with B.P.No.72 dated 22.02.2014. Contrary to this, what has been clarified by the learned Judge in the order impugned is hereby set aside. As a result, there shall be a direction to the appellant TANGEDCO to verify whether the benefits had already been calculated and paid to the employee or his legal heirs who have already been impleaded as party respondents and if the said amount has not been calculated and paid, the same shall be calculated on the basis of the relevant G.O.Ms. No.363 and the B.P.No.72 as now been directed in this writ appeal and accordingly the said amount shall be paid to the legal heirs of the employee within a period of eight weeks from the date of receipt of a copy of this order.



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(ii) In case already the amount has been calculated and paid to the employee or legal heirs of the employee on the basis of the B.P.No.2 based on which if the TANGEDCO feels that, any excess amount since has been paid that has to be recovered from the employee or his legal heirs who are the respondents herein, the TANGEDCO shall not make any such recovery from the employee.

(iii) If the amount has not been paid as indicated above, the needful as stated herein above shall be undertaken by the TANGEDCO within the said period.

14. With this modification, the order impugned has been modified and accordingly this Writ Appeal is allowed to the term indicated above. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.)

(K.B., J.)

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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R. SURESH KUMAR, J.

And

K.KUMARESH BABU, J.

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