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W.P.No.11029 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.11029 of 2020
and WMP No.13420 of 2020

Selvi K.Bagavathi

... Petitioner

/vs/

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Electricity Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai – 2.
- 2.The Chief Engineer (Personnel)
Tamil Nadu Generation and Electricity Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai – 2.
- 3.The Deputy Chief Internal Audit Officer,
Pension Audit Branch,
TANGEDCO, NPKRR Maligai,
144, Annasalai,
Chennai-2.
- 3.The Superintending Engineer,
Thiruvannamalai Electricity Distribution Circle,
TANGEDCO, Thiruvannamalai.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the 3rd respondent, in Lr.No. 27830/240/F15/F153/E2948/2017, dated 04.08.2017 and quash the same and consequently, direct the respondents to disbure Ex-gratia family pension to the unmarried petitioner, from 22.12.2013, due to the death of her mother as per proceedings of the 4th respondent vide Proceedings No: 013442/SET/Adm.2/A4/F.24-84/2017 dated 27.05.2017.

For Petitioner ... Mr.S.N.Ravichandran

For Respondents ... Mr.K.Rajkumar
Standing Counsel

ORDER

This writ petition has been filed to quash the proceedings of the 3rd respondent in Lr.No. 27830/240/F15/F153/E2948/2017, dated 04.08.2017 and consequently, direct the respondents to disbure Ex-gratia family pension to the unmarried petitioner, from 22.12.2013, due to the death of her mother as per proceedings of the 4th respondent vide Proceedings No: 013442/SET/Adm.2/A4/F.24-84/2017 dated 27.05.2017.



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2.The petitioner is the daughter of the deceased Foreman by name Krishnamoorthy who retired on 31.08.1984 and expired on 04.11.1984. Subsequent to the death of Krishnamoorthy, his wife Parvathy was getting the family pension. The petitioner who is the unmarried daughter of the deceased Krishnamoorthy now has come out with the claim that she is entitled to get the family pension consequent to death of her mother and sought a direction to that effect against the respondent.

3.The learned counsel for the respondent submitted that the deceased Krishnamoorthy himself is not entitled to pension and whatever pension that is so far given to his wife was only ex-gratia and not family pension. Since the wrong terminology has been employed in the orders as family pension instead of ex-gratia, the petitioner cannot claim any family pension. It is further submitted by the learned counsel for the respondent that ex-gratia is one time measure and that it cannot be extended to the unmarried daughter of the deceased Krishnamoorthy.



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4.The petitioner's father had retired before 01.07.1986. But he belongs to regular work establishment. However, on considering the representation made by the various association and employees who have retired prior to 01.07.1986 and alive, the respondent Board had passed orders to grant ex-gratia to all those regular work establishment employees who had retired prior to 01.07.1986 and alive, who were covered under Contributory Provident Fund / Non-pensionary establishment.

5.However, the learned counsel for the petitioner drew the attention to the FB TANGEDCO proceedings dated 03.05.2013 wherein, family pension is allowed to unmarried / divorce daughters to meet the livelihood. The Government has issued orders to restrict the quantum of family pension to unmarried/divorce daughters at the rate of Rs.3050/- (to the level of minimum pension allowed to the pensioners/family pensioners) with admissible dearness allowance, medical allowances of Rs.100/- per month w.e.f. 28.11.2011. As the respondent has been adopting the Government orders from time to time



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with regard to pension and pensionary benefits, the above proceedings has to be considered as only an extension of the earlier Government orders. The record would show that only in compliance of the above proceedings, the wife of the deceased was given with the minimum pension of Rs.3050/- along with admissible dearness allowances and medical allowances alone.

6. Even though, the learned counsel for the respondents has repeatedly submitted that what is allowed to the wife of the deceased was only an *ex-gratia*, the quantum allowed and the manner in which the amount was withdrawn by the wife of the deceased Krishnamoorthy would show that it is only a family pension, though it is preferred to be given with other nomenclature. If the respondent Department wishes to utilize the nomenclature '*ex-gratia*' for payment of any financial assistance that is being extended to the eligible family members of the deceased, the same benefit needs to be extended to the petitioner also who is an unmarried daughter of the deceased. In fact, the respondent himself has rightly sanctioned the above financial assistance by virtue of the proceedings dated 27.05.2017. But as an after



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thought, the respondent all of a sudden has withdrawn the same which is illegal and arbitrary.

7.In view of the above stated reason, the writ petition is allowed and the impugned order dated 04.08.2017 is liable to be set aside and the order of the 4th respondent dated 27.05.2017 is restored and consequently the 4th respondent is directed to disburse the financial assistance already sanctioned by virtue of proceedings dated 27.05.2017 to the petitioner along with arrears, within a period of six weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

14.12.2023

Index: Yes / No

Speaking order / Non-speaking order

ssr

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R.N.MANJULA ,J.

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