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WP.No.16123/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.07.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.16123/2019

S.Moorthy

... Petitioner

Versus

1.The Chief Engineer [Personnel]
The Tamil Nadu Generation & Distribution
Corporation Ltd., [TANGEDCO]
Anna Salai, Chennai 600 002.

2.The Superintending Engineer
Kundha Power Generation Circle
TANGEDCO/TNEB
Kundha, The Nilgiris District.

3.The Executive Engineer
O&M-TANGEDCO
Sathyamangalam, Erode District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the impugned order dated 22.04.2019 passed by the 3rd respondent in Ku.Aa.No.1356/145/Se.Po/Epe/Sa/Pi/Ne.U-3/Ko.Kattu/2019 and quash the same, consequently direct the respondents to fix and pay the



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salary of the petitioner as per the board proceedings dated 21.11.2009 made in [Per] B.P.[Ch] No.223 issued by the 1st respondent.

For Petitioner : Mr.M.R.Jothimanian
For Respondents : Mr.David Sundar Singh
Standing counsel

ORDER

- (1) This writ petition has been filed in the nature of certiorarified mandamus, seeking records relating to an order of the 3rd respondent, Executive Engineer, [Operation & Maintenance], TANGEDCO, Sathyamangalam at Erode District in Ku.Aa.No.1356/145/Se.Po/Epe/Sa/Pi/Ne.U-3/Ko.Kattu/2019 dated 22.04.2019 and set aside the same and direct the respondents to fix the pay of the petitioner's salary in accordance with the Board Proceedings dated 21.11.2009 in Personnel Board Proceedings [CH] No.223, issued by the 1st respondent, Chief Engineer [Personnel], TANGEDCO, at Chennai.



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(2) The writ petitioner Mr.S.Moorthy, is now working as Accounts Officer in the respondents. He had been promoted to that post on 31.03.2012. He was originally appointed as Helper and subsequently, promoted as Junior Assistant on 17.5.1995. He worked as Junior Assistant till 31.03.2012. He was posted initially as Junior Assistant at the 2nd respondent office, namely, The Kunda Power Generation Circle at Nilgiris and had been subsequently transferred to Sathyamangalam in Erode District-3rd respondent office. While he was so employed as Junior Assistant, the Board Proceedings No.223 dated 21.11.2009, came into effect. Since the petitioner has been working as Junior Assistant from 17.05.1995, as a natural corollary, on completion of ten years, he was granted Special Grade pay in the post of Junior Assistant. By the Board Proceedings aforementioned incidentally also applied to Junior Assistants and specifically the post of Junior Assistant had been given in the Schedule to the Board Proceedings. There were various agreements drawn with respect to selection grade and special grade scales of pay. The petitioner is deeply concerned with the interpretation given by the respondents



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relating to selection grade scale of pay.

(3) The relevant clause in that Board Proceedings is Clause No.3[vii] and also Clause No.4[4], which clauses read thus:-

"3.In pursuance of the Settlement, dated 18.11.2009 referred to in para-2 above, the Tamil Nadu Electricity Board passes the following orders:-

[i]...

[ii]...

[iii]...

[iv]...

[v]...

[vi]...

[vii]SELECTION GRADE AND SPECIAL GRADE SCALES OF PAY:-

The existing procedure of allowing Selection Grade on completion of 9 years of service, be continued. The pay of such employees who have moved to Selection Grade on or after 01.12.2007 shall be fixed on the date of movement to Selection Grade by granting the benefit of one increment equal to three percent of the Basic Pay including Grade Pay in the same Pay Band and Grade Pay. On and from



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01.12.2007, the existing scheme of Special Grade shall be dispensed with and the employees who have completed 10 years of service in the Selection Grade post or 20 years of total service in a post, be moved to Special Grade. The pay of such employees who have moved to Special Grade on or after 01.12.2007 shall be fixed on the date of movement to Special Grade by granting the benefit of one increment equal to three percent of the Basic Pay including Grade Pay in the same Pay Band and Grade Pay."

....

4.FIXATION OF PAY IN THE REVISED PAY STRUCTURE:-

The initial pay of an employee who elects to be governed by the revised pay structure from 1st December 2007, shall be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended and in respect of his pay in the officiating post held by him, in the following manner namely:-

[1]...

[2]...



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[3]...

*[4]Where, in the fixation of pay, the pay of employee drawing pay at two or more consecutive stages in the existing scale gets bunched, that is to say gets fixed, in the revised pay structure at the same stage in the pay band, then for every two stages so bunched, benefit of one increment shall be given so as to avoid bunching of more than two stages in the revised running pay bands. For this purpose, the increment will be calculated on the pay in the pay band only and **Grade Pay should not be taken into account** for the purpose of granting increments to alleviate bunching."*

- (4) The petitioner claims that since he had been granted selection grade pay which will also naturally include the Grade Pay, he should be granted increment in accordance with Clause 4[4] extracted above, wherein, if the pay is drawn on two or more consecutive stages and gets bunched with the existing scale, then when it is revised, the benefit of one increment should be given for every two stages so bunched. However, for that purpose, the Grade Pay should not be



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taken. This mean that the basic pay is fixed under the selection grade pay and the pay which is now revised gets bunched so far as the petitioner is concerned since he had already been granted selection grade in the year 2004. The basic pay must be worked out after such bunching of the pay. The Grade Pay must be left out and on the basic pay so worked out, one increment must be given.

- (5) On the side of the respondents, reliance is placed on Clause 3[vii] wherein it had been stated that the pay of those employees who had moved to selection grade on or after 01.12.2007 shall alone be fixed on the date of such movement by granting the benefit of one increment equal to 3% of basic pay including the Grade Pay. The difference between the stand taken by the petitioner and the stand taken by the respondents is the basic pay to be taken for grant of one increment. The petitioner claims, since there is a concept of bunching the basic pay which was granted as he was getting selection grade and also the revised pay should be taken together and then, one increment should be granted. On the side of the respondents, it had been stated that this would be effective only for those who had been granted



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selection grade on or after 01.12.2007 and the manner in which the increment should be calculated or increment should be granted, has been given. The petitioner had given a representation seeking refixation of the pay.

- (6) In the impugned order, it had only been stated that an opinion was sought from the respondents 2 and 3 and consequent to the opinion received, the 1st respondent had taken a decision that the petitioner is not entitled for refixation of pay. This impugned order conveys no real meaning at all. It is for the 1st respondent to independently apply his/her mind to the representation given by the petitioner and thereafter, examine which particular clause in the Board Proceedings would apply so far as the petitioner is concerned and then, revise the pay accordingly. Even if opinion is sought from the respondents 2 and 3, that opinion must be stated in writing and the reason why that is adopted or that is rejected or that is adopted with some modification, should be stated in the impugned order. There are no reasons given in the impugned order at all. Any quasi judicial authority while passing an order should ensure that the order has



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clarity so that the person on whom the order is focused understands why such an order was passed and the reasons behind the passing of such order.

- (7) Therefore, the impugned order is set aside and the writ petition stands **allowed**. A direction is given to the 1st respondent to, on the basis of the opinion already received from the respondents 2 and 3, examine the Board Proceedings and the Clauses referred to above, examine the observations of this Court stated above and then pass a detailed order with reasons as to whether the petitioner is entitled for refixation as he claims or the refixation should be granted by the respondents as they hold he is entitled to. Let a considered order be passed. The entire exercise may be completed within a period of six weeks from the date of receipt of a copy of this order. If the respondents seek any clarification, notice may be issued to the petitioner herein and the representation may be received in this regard and thereafter, orders may be passed. No costs.

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C.V.KARTHIKEYAN, J.,

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