



WEB COPY



W.A. No.94 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. No.94 of 2023 & C.M.P. No.910 of 2023

The Superintending Engineer
Tirupattur Electricity Distribution Circle
Tamil Nadu Electricity Board/Tirupattur
Vellore District

Appellant

v

- 1 S. Abdul Salam
- 2 Dhilshath Begum
- 3 Athick Ahmed
- 4 S. Shafeek Ahmed
- 5 S. Asma
- 6 S. Tasneem
- 7 The Presiding Officer
Labour Court
Vellore

Respondents

(RR 2 to 6 brought on record as legal representatives of R1 *vide* order dated 27.06.2023 in C.M.P. No.8940 of 2023.)



W.A. No.94 of 2023

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 06.09.2021 passed in W.P. No.31500 of 2004.

For appellant	Mr. P. Subramanian
R1	Died
For RR 2 – 6	No appearance

JUDGMENT

To avoid verbosity, the parties are adverted to as per their rank in this writ appeal.

2 The facts leading to the filing of this writ appeal are succinctly stated below.

2.1 The first respondent was working as Revenue Supervisor in the petitioner Board when he retired from service on 30.09.1996. While so, when he was in service, in December 1988, his pay was revised and fixed at Rs.2,000/- and accordingly, he was paid the revised pay till June 1993.

2.2 While so, the petitioner Board, *vide* order dated 05.06.1993, ordered recovery of Rs.4,390/- from the first respondent in 15 monthly instalments, on the ground that the first respondent's pay was erroneously fixed as Rs.2,000/- instead of Rs.1,940/- and that the same was detected only during audit, and the said amount was also recovered from the first respondent.



2.3 Aggrieved, the first respondent filed a petition in C.P. No.348 of 2003 before the seventh respondent-Labour Court seeking refund of Rs.4,390/- together with interest of Rs.4,566/-, totally, Rs.8,956/-, in which, *vide* order dated 05.07.2004, the seventh respondent, observing that the petitioner Board is not right in sleeping over the matter and ordering recovery of pay wrongly fixed in 1988, directed refund Rs.4,390/- to the first respondent.

2.4 Thereagainst, the petitioner Board filed a writ petition being W.P.No.31500 of 2004, which came to be dismissed by the Single Bench *vide* order dated 06.09.2021 directing the petitioner Board to pay a sum of Rs.4,390/- plus interest @ 12% per annum from 05.07.2004, being the date of the order passed by the seventh respondent, besides imposing costs of Rs.50,000/- payable to the first respondent.

2.5 The aforesaid order dated 06.09.2021 passed by the Single Bench is under assail in this writ appeal.

3 Today, Mr. P. Subramanian, learned counsel for the petitioner Board submitted that the amount ordered to be refunded by the seventh respondent has already been deposited by the petitioner Board with the seventh respondent. He further submitted that the petitioner is a public sector undertaking and the first



respondent had filed the claim petition in 2003 seeking refund of the amount recovered *vide* order passed in 1993 with a delay of ten years and such being the background, imposition of costs of Rs.50,000/- will set a bad precedent, especially when there is no fault attributable to the petitioner Board.

4 The first respondent is no more and his legal representatives have been brought on record and despite effecting paper publication and printing their names in the cause list, they have not appeared before this Court.

5 Be it noted, imposition of costs is the discretion of the Court and the Single Bench has exercised its powers in regard thereto. Under normal circumstances, we would not interfere with in matters such as this. However, as rightly pointed out by the learned counsel for the petitioner Board, we should not lose sight of the fact that there is an inordinate delay of ten years on the part of the first respondent in filing the computation petition before the seventh respondent seeking refund.

6 In such perspective of the matter, we set aside the impugned order passed by the Single Bench only insofar as it relates to imposition of costs of Rs.50,000/- and the other portion of the order of the Single Bench remains intact.



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This writ appeal stands disposed of accordingly. Connected C.M.P. is closed.

(S.V.N., J.) (K.R.S., J.)
27.06.2023

cad

To

The Superintending Engineer
Tirupattur Electricity Distribution Circle
Tamil Nadu Electricity Board/Tirupattur
Vellore District



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