



W.P.(MD).No.1811 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.1811 of 2021

- 1.V.Murugesan
- 2.M.Kamaraj
- 3.V.Vellaichamy
- 4.V.Muthumayandi
- 5.M.Abdul Hameed
- 6.R.Periyasamy
- 7.A.Chidambaram
- 8.K.Jothikumar
- 9.S.Muthusamy
- 10.P.Rajendran
- 11.P.Subramanian
- 12.M.Sheik Dawood
- 13.T.Snegarathinam
- 14.K.Saraswathi
- 15.G.Sooriyanarayanan

... Petitioners

Vs.

- 1.The Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO), (Formerly TNEB),
Represented by its Chairman/Director,
144, Anna Salai,
Chennai – 600 002.



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2.The Tamil Nadu Electricity Board (TNEDB),
Presently known as Tamil Nadu,
Generation and Distribution Corporation Limited,
(TANGEDCO),
Represented by its Secretary,
144, Anna Salai,
Chennai – 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in (Per) B.P.(Ch)No.235 dated 01.12.2009 on the file of the second respondent in so far as excluding the merger of dearness relief of 50% from the pension of the petitioners in Clause 2 (e) and the consequential impugned order in Letter No.50449/A3/A32/2019-2 dated 16.11.2019 on the file of the second respondent and quash the same as illegal and consequently for a direction directing the respondents to revise/refix the pay scale, pensionary benefits of the petitioners by merging 50% Dearness Allowance along with the Basic Pay of the petitioners with effect from 01.01.2006 and to provide all other consequential benefits and arrears on parity with order State Government employees within the period stipulated by this Court.

For Petitioners	: Mr.Aswin Rajasimman for M/s.Lajapathi Roy Associates
For Respondents	: Mrs.S.Parameswari Standing Counsel



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ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order in (Per) B.P.(Ch)No.235 dated 01.12.2009 on the file of the second respondent in so far as excluding the merger of dearness relief of 50% from the pension of the petitioners in Clause 2 (e) and the consequential impugned order in Letter No.50449/A3/A32/2019-2 dated 16.11.2019 on the file of the second respondent and consequently to direct the respondents to revise/refix the pay scale, pensionary benefits of the petitioners by merging 50% Dearness Allowance along with the Basic Pay of the petitioners with effect from 01.01.2006 and to provide all other consequential benefits and arrears on parity with order State Government employees within the period stipulated by this Court.

2.Heard the learned counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondents and perused the materials available on record.



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3.A similar case was dealt with by this Court in ***W.P(MD)Nos.20820 to 20822 of 2018 etc batch, dated 22.06.2023 [P.Arunagiri and others Vs. The Tamil Nadu Generation and Distribution Corporation Limited and another]***, in which the issue raised in this Writ Petition has been considered and appropriate orders were passed, the operative portion of which is extracted as follows:-

"2.The contention of the petitioners are that they are retired employees of the respondent Corporation. The Government of Tamil Nadu took a policy decision for merger of 50% dearness allowance with basic pay / pension with effect from 01.01.2006. The said benefit was extended to all the State Government employees as well as the retired pensioners. However, the said benefit was not extended to the employees of the Electricity Board. Hence, the petitioners and Associations repeatedly submitted several representations to the respondents to extend the same benefit to the Board employees. Thereafter, the Board extended the benefit and issued an order for merger of 50% dearness allowance with basic pay / pension with effect from 01.08.2006. However, the petitioners have filed a writ petition



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in W.P.No.2658 of 2017 before this Court to extend the benefit from 01.01.2006. This Court, by order dated 19.09.2019, directed the second respondent in the writ petition to consider the representation of the petitioners, dated 30.11.2016 and pass appropriate orders on merits and in accordance with law, within stipulated time. Pursuant to the order passed by this Court, the order dated 16.11.2019 has been passed by the second respondent, wherein the petitioners' request for merger of 50% dearness allowance with basic pay/pension with effect from 01.01.2006 was rejected and the petitioners are aggrieved, hence, the present writ petitions.

3. The learned Standing counsel appearing for the respondents submitted the State Government has issued order for merger of 50% dearness allowance with basic pay/pension with effect from 01.01.2006. Based on the Government Order, the petitioners and Unions/Associations have submitted representations to extend the said benefit. Pursuant to which, the Board has taken a decision, considering the financial position of the Board. The said policy decision was taken on the floor of the Assembly and the same was implemented by Board Proceedings in (Permanent) B.P.(FB).No.41, dated 31.08.2006



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and hence, the claim of the petitioners to implement the same with effect from 01.01.2006 on par with State Government employees cannot be sustained and prayed to dismiss the writ petitions.

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5. The issue in these writ petitions is whether the petitioners are entitled for merger of 50% dearness allowance with basic pay/pension with effect from 01.01.2006. Admittedly, the State Government has decided to implement the merger of 50% dearness allowance with basic pay / pension to the Government employees with effect from 01.01.2006. However, taking into consideration of the stringent financial position, the respondent Electricity Board has decided to implement the said benefit to the Board employees with effect from 01.08.2006 and not from 01.01.2006. This policy decision was taken on the floor of the Assembly and the same is implemented with effect from 01.08.2006 onwards. There is no infirmity to implement the benefits from subsequent date, moreover it is policy decision and hence the Courts cannot interfere with the policy decision of the Electricity Board. More so when the policy decision was taken in consultation with Government and based on the



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financial condition of the Board. Therefore, this Court is of the considered opinion that the writ petition is liable to be dismissed.

6.The learned Counsel appearing for the petitioner submitted that the Board Proceedings in (Permanent) B.P.(FB)No.41, dated 31.08.2006, was issued in the year 2006. However, the respondents have not considered in the light of the subsequent B.P. Proceedings. The learned Standing Counsel for the respondents submitted that the said Board Proceedings in (Permanent) B.P.(FB)No.41, dated 31.08.2006, is still applicable and there is no improvement in the financial position of the Board. This Court is simply recording the said submission."

4.In view of the above, this Court is fully in consonance with the said order passed by this Court in W.P(MD)Nos.20820 to 20822 of 2022 etc batch, dated 22.06.2023 and the Writ Petition is dismissed. However, liberty is granted to the petitioners to submit a fresh representation to the respondents and if there is any change in the policy decision and if there is any change in the financial position of



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the respondents, the said representation may be considered by the respondents. There shall be no order as to costs.

24.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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- 2.The Tamil Nadu Electricity Board (TNEDB),
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L.VICTORIA GOWRI, J.

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