



REV.APLC.(MD)No.28 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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and

C.M.P.(MD)No.5514 of 2023

1.The Managing Director,
Tamil Nadu Minerals Ltd.,
Chepauk, Chennai-600 005.

2.The Factory Manager,
Tamil Nadu Minerals Ltd.,
Senthudayanathapuram,
Melur Road, Sivagangai.

... Applicants / Appellants

Vs.

1.P.Periyasamy
2.N.Ramachandran
3.R.Ganesan
4.A.P.Nagarajan

5.The Secretary to Government,
Industries (MME-1) Department,
Secretariat, Chennai-600 009.

...Respondents / Respondents

PRAYER: Review Application filed under Order 47 Rule 1 and 2 r/w
Section 114 of Civil Procedure Code, praying this Court to review the order



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dated 24.07.2019 made in W.A.(MD)No.148 of 2019, confirming the order dated 08.02.2018 made in W.P.(MD)No.10288 of 2014 on the file of this Court.

For Applicant : Mr.R.Baskaran,
Additional Advocate General,
assisted by Mr.A.K.Manikkam,
Standing Counsel
For R1 to R4 : Mr.K.Mahendran

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

This Review Application has been filed against the order passed by the co-ordinate Bench of this Court in W.A.(MD)No.148 of 2019, dated 24.07.2019.

2.The respondents 1 to 4 herein, having been sponsored by the concerned District Employment Exchange, had been appointed as Plumbers at the appellant, namely, Tamil Nadu Minerals Limited (TAMIN) sometime in 1994. After having worked for 10 years, they have been conferred the status of selection grade, subsequently, they continuously worked for



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another 10 years. Therefore, they completed totally 20 years, hence, the next financial upgradation ie., special grade also conferred on them.

3.Despite this upgradation had been conferred on these employees, no financial benefit had been extended to them.

4.This kind of anomalies since occurred in some other category of the employees at various departments in the State of Tamil Nadu, One Man Commission has been appointed to examine such anomalies, which in fact arose following the implementation of the recommendations of the 2009 Official Committee.

5.Based on the One Man Commission's report, recommendations made in this regard having been accepted were implemented by the Government and in this regard, G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010 was issued, subsequently, letter dated 08.11.2010 was also issued.



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6.In this context, it is to be noted that however, Electricians, who have been working in TAMIN, were left out therefore, it was necessitated for the Government to issue G.O.Ms.No.70, Industries (MME-1) Department, dated 01.02.2011.

7.Likewise, the Plumbers, who are working in the State Guest House had similar grievance, which had not been redressed, as they have not been granted or they have not been extended financial benefit pursuant to the upgradation. Therefore, they made request to the Government, which was considered and G.O.Ms.No.247, Finance (Pay Cell) Department, dated 22.07.2013 was issued.

8.Despite these Government Orders were issued following the recommendations made by the One Man Commission, of course, to redress the anomalies, which had been arose after, 2009 Official Committee benefits given to various employees due to upgradation, though had been effected or extended, including Plumbers, who are similarly placed like the respondents 1 to 4 herein working in the State Guest House, such a benefit



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had not been extended to the respondent employees. Therefore, they had approached this Court by filing a Writ Petition in W.P.(MD)No.10288 of 2014.

9.The said Writ Petition came to be allowed by the order of the learned Single Judge dated 08.02.2018.

10.Aggrieved over the said order passed by the Writ Court, the appellant TAMIN had filed Intra-Court Appeal in W.A.(MD)No.148 of 2019, which also came to be dismissed by confirming the order passed by the Writ Court by order dated 24.07.2019.

11.Still feeling aggrieved over the order passed by the Division Bench of this Court also, the appellant preferred Special Leave Petition before the Hon'ble Supreme Court of India in S.L.P(Civil)Diary No.15083 of 2020, which came to be decided by an order of the Hon'ble Supreme Court dated 11.01.2021, where in fact after issuing notice, the Hon'ble Supreme Court, having heard both sides, was not inclined to interfere with the order passed by the High Court. Therefore, the Special Leave Petition was dismissed.



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12. Therefore, complete quietus has been given in this issue, where the benefits sought for by the respondent employees of the appellant TAMIN, allowed by the Writ Court confirmed by the Division Bench of this Court, has been affirmed by the Hon'ble Supreme Court and therefore, the benefits, which ought to have been given to the respondent employees, to be extended. Since the same has not been extended, the respondent employees in fact filed Contempt Petition in Cont.P.(MD)No.973 of 2021, which is also pending consideration before this Court.

13. In the meanwhile only this Review Application has been filed by TAMIN.

14. Mr. R. Baskaran, learned Additional Advocate General appearing for the review applicant would contend that though the respondent employees joined only in the year 1994, after completing 10 years of service they had been conferred selection grade, subsequently, after 20 years, they had been conferred special grade. Insofar as the financial upgradation is concerned, it is not a matter of right and depending upon the



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financial capacity of the TAMIN, who is the employer, such kind of benefits normally would be extended.

15.Insofar as the employees, who are working in the various departments of the Government are concerned, they are in different pedestriars and therefore, if at all any such benefit is extended to such employees by issuance of various Government Orders by the concerned Department, here it is Finance Department as well as Industrial Department that would not confer any right to be automatically extended to the employees, especially, Plumbers, who are working in temporary in nature. Therefore, that kind of benefit extended merely because to some other employees, cannot be expected to be extended to the employees, who are temporarily working like the present respondent employees and this aspect has not been properly canvassed either before the learned Single Judge or before the Division Bench of this Court and therefore, in order to canvass this, it has become necessitated for the TAMIN to prefer this Review Application. Therefore, the learned Additional Advocate General seeks indulgence of this Court to issue notice to the respondents by entertaining this application.



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16.However, the learned counsel for the respondents 1 to 4 has contended that the conferment of selection grade and special grade is only for the purpose of financial upgradation and that have been conferred on these employees and this has been taken note of by the Writ Court as well as the Division Bench of this Court and ultimately, the Hon'ble Supreme Court also having accepted the said decision was inclined to reject the Special Leave Petition filed by the appellant TAMIN. Therefore, the issues since have been given quietus, there is no question of reopening the issues, as absolutely, there has been no apparent error on the face of record either in the order of the Writ Court or in the judgment of the Division Bench of this Court. Therefore, the learned counsel for the respondents 1 to 4 seeks dismissal of this Review Application.

17.We have considered the said submissions made on either side and perused the materials available on record carefully.

18.As has been rightly pointed out by the learned counsel for the respondent employees the financial upgradation is given to the employees,



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those who have been stagnating for getting promotional conferment. It is the settled legal position in any service jurisprudence and therefore, such kind of benefits conferred on any type of employees would always attached with the financial upgradation without which no such upgradation could be made possible, because if a person worked for 10 years and not able to earn any promotion and such financial upgradation of selection grade is given, certainly, the pay of the employee would be stepped up. Like that after 20 years of service, if further financial upgradation is given by way of special grade, once again the pay of the employee would be stepped up.

19.Except upgradation of the pay, there would be no functional promotion, since would be given to these employees, such kind of financial upgradation alone since is extended automatically, the financial benefit should also be extended and denying such financial benefits would be no use, even though they are getting selection grade.

20.This position have been considered by the Government whenever this kind of dispute arose or anomalies left out, in order to redress and set right this One Man Commission was appointed who had



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recommended the Government to issue Government Order after Government Order. All these have been taken note of by the learned Single Judge and the Division Bench of this Court and the benefit already extended to various persons, was directed to be extended. Therefore, the orders passed by the Writ Court and the Division Bench of this Court do not warrant any interference, as there is no such error apparently on the face of the record available in any of these orders and absolutely, there has been no plausible ground on the part of the review applicant to seek indulgence of this Court to issue notice in this Review Application. Hence, this Review Application fails and accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) & (K.K.R.K, J.)

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NCC : Yes / No

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Internet : Yes / No

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