



W.P.(MD)No.10914 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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and

W.M.P.(MD)No. 9584 of 2020

- 1.N.Raghavan
- 2.K.Nallamuthu
- 3.T.Kuppan
- 4.S.Sivaji
- 5.P.Edward
- 6.K.Sokkiah
- 7.R.V.Vinola
- 8.A.Selvaraj
- 9.V.Urgalan
- 10.T.Ammapillai
- 11.S.Rajangam
- 12.P.Indirani
- 13.K.Arumugam
- 14.N.Natesan
- 15.S.Vaiyamalai



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16.M.Ekambaram

17.K.P.Thangavel

18.P.Periyasamy

19.S.Chinniyan

20.A.Shanmugam

21.A.Jeyabalan

22.P.Muthu

23.S.Vimala

24.M.Pitchaiammal

25.S.Jeyapaul Singh

26.A.Velliangiri

27.R.Kalyani

28.S.Sankararajan

29.V.Poongody

30.E.S.Kaliyaperumal

31.C.Vedarathinam

32.S.K.David

33.S.Krishnasamy

34.K.Chellathurai

... Petitioners

Vs.

1.Tamil Nadu Generation and Distribution Corpn. Ltd.,
(TANGEDCO), (Formerly TNEB),
Rep by its Chairman/Director,
144, Anna Salai,
Chennai - 600 002.



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2. Tamil Nadu Electricity Board
(TNEB), Presently Known as
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO),
Rep. by its Secretary,
144, Anna Salai,
Chennai - 600 002.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of 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 Respondent No.2 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 Respondent No.2 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 instead 01.08.2006 and to provide all other consequential benefits and arrears on parity with other State Government Employees.



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For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Arivalagan

ORDER

This writ petition has been filed to quash impugned Order in (per) B.P(Ch) No.235 dated 01.12.2009 on the file of the Respondent No.2 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 Respondent No.2 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 instead 01.08.2006 and to provide all other consequential benefits and arrears on parity with other State Government Employees.

2. The learned counsel appearing for the petitioners would submit that the petitioners are the retired employees of the respondent Corporation



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(TNEB). 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 Electricity Board employees like that of the petitioners. Hence, the petitioners and several Associations repeatedly made 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 in W.P. (MD)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 petitioner, dated 30.11.2016 and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Pursuant to the order passed by this Court, the impugned order dated 16.11.2019 has been passed by the second respondent, wherein the petitioners' request for merger of 50% dearness



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allowance with basic pay/pension with effect from 01.01.2006 was rejected, which is not sustainable one. Hence, he prayed for allowing these writ petitions.

3. Per contra, the learned Standing counsel appearing for the respondents would submit that the State Government have issued order for merger of 50% dearness allowance with basic pay/pension with effect from 01.01.2006. Based on the Government Order, the Unions/Associations have made representations to the respondent Board to extend the said benefit to the employees of the Board. Pursuant to which, the Board has taken a decision, considering the stringent 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 and hence, the claim made by the petitioners to implement the same with effect from 01.01.2006 on par with other State Government employees is not sustainable one. Hence, he prayed for dismissal of these writ petitions.



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4. Heard, the learned counsel on either side and perused the materials available on record.

5. The issue arise 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 have decided to implement the merger of 50% dearness allowance with basic pay / pension to the Government employees with effect from 01.01.2006. However, due to stringent financial position, the respondent Electricity Board has not implemented the said benefit to the Board employees with effect from 01.01.2006 and based on the policy decision taken on the floor of the Assembly, they decided to implement the same to the Board employees with effect from 01.08.2006 onwards. This Court cannot interfere with the policy decision taken by the respondent Electricity Board, and grant the relief from 01.01.2006 on par with other State Government employees and it is for the Board has to take a policy decision in consultation with Government on the financial condition of the Board.



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6. In the result, this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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

RM



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M.DHANDAPANI, J.

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