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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD).No.13299 of 2020
and
W.M.P.(MD)No.11117 of 2020

1.P.N.Rajendran
2.K.Chandra Sekaran
3.M.Rajagopal
4.A.Solomon Edwin
5.S.Sankaran
6.O.S.Jeyabalan
7.G.Annamalai
8.C.Devendran
9.V.S.Narayanan
10.P.R.Ramasamy
11.S.Kowsalya
12.I.Dhanapandi
13.N.Parvatha Vanja
14.T.Jeyaprakash
15.K.Vijayan
16.S.Asaithambi
17.K.R.Gnanamurthy ... Petitioners

Vs.

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

2.Tamil Nadu Electricity Board (TNEB),
Presently Known as Tamil Nadu,
Generation and Distribution Corporation Limited,
(TANGEDCO),
Represented 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, calling 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 insofar 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 / re-fix 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 of 01.08.2006 and to provide all other consequential benefits and arrears on parity with order State Government Employees within the time period stipulated by this Court.

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For Petitioners : Mr.S.Rajasekar

For Respondents : Mrs.M.Parameswari
Standing Counsel

O R D E R

The writ petition has been filed challenging the impugned order passed by the second respondent dated 01.12.2009, insofar as excluding the merger of dearness allowance of 50% from the pension of the petitioners in Clause 2(e) and the consequential impugned order of the second respondent dated 16.11.2019 and to quash the same and consequently direct the respondents to re-fix the pay scale and 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 of 01.08.2006 and to provide all other consequential benefits and arrears on par with order State Government Employees within the time period stipulated by this Court.

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2. The learned counsel appearing for the petitioners would submit that the petitioners are the retired employees of the respondent Corporation (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, some of the petitioners have filed a writ petition 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 representations of the petitioners, 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 the order. Pursuant to the order passed by this Court, the

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impugned 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, 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

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writ petitions.

4. Heard the learned counsel for the petitioners and the learned Standing counsel appearing for the respondents.

5. The issue arising in the writ petition 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

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consultation with Government on the financial condition of the Board.

6. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.01.2023

NCC: Yes/No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

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