



W.P.(MD)No.13256 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD).No.13256 of 2020

and

W.M.P.(MD)No.11083 of 2020

1.R.Krishnasamy
2.D.Shenbagavalli

... Petitioners

Vs.

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



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PRAYER : Petition is filed under Article 226 of the Constitution of India praying for issuance of a 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 respondent No.2 insofar as excluding the merger of dearness relief of 50% from the pension of the petitioners in Clause 2 (e) and quash the same as illegal and consequently for a direction, directing the respondents to re-fix the pension of the petitioners who have retired from service from 01.01.2006 to 30.11.2007 on par with State Government Employees by way of granting fitment weightage @ 40% of the basic pension of the petitioners including the effect of merger of 50% Dearness Allowance along with arrears and all other consequential benefits within the time period stipulated by this Court.

For Petitioners : Mr.S.Rajasekar

For Respondents : Mrs. M.Parameswari
Standing Counsel

ORDER

This 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



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Clause 2(e) and for a consequential direction to the respondents to re-fix the pension of the petitioners, who have retired from service from 01.01.2006 to 30.11.2007, on par with State Government Employees by way of granting fitment weightage @ 40% of the basic Pension of the petitioners including the effect of merger of 50% dearness allowance along with arrears and all other consequential benefits.

2. The learned counsel appearing for the petitioners would submit that the first petitioner is the retired employee of the respondent Corporation (TNEB) and the husband of the second petitioner was also employed in 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 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



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order by stating that “where the existing pension in paragraph 2(ii)(a) above includes the effect of merger of 50% Dearness relief with effect from 01.08.2006, the existing pension for the purpose of fitment weightage will be recalculated after excluding the merger of dearness relief of 50% from the pension”. Challenging the same, the present Writ Petition has been filed.

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.

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 to take a policy decision in consultation



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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, the connected Miscellaneous Petition is closed.

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NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

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