



W.P(MD)No.16771 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16771 of 2020

and

W.M.P(MD)No.14012 of 2020

H.Raman

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu Water Supply & Drainage Board,
No.31, Kamarajar Salai, Chepauk,
Chennai -5.

2.The Joint Chief Engineer (General),
Tamilnadu Water Supply & Drainage Board,
Chepauk, Chennai-5.

3.The Superintending Engineer,
Tamilnadu Water Supply & Drainage Board,
Tirunelveli, Kanyakumari Circle,
Tirunelveli.

4.The Executive Engineer,
Tamilnadu Water Supply & Drainage Board,
Maintenance Division,
Tirunelveli - 2.

... Respondents



W.P(MD)No.16771 of 2020

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records connected with the impugned orders passed by the 2nd respondent in Letter No.O3/24918/Tha.A/Oyivu/2015 dated 13.03.2015 and the consequential order passed by the fourth respondent in Letter No. 549//Ko.H.Raman/Pa.Vu 2/2015 dated 04.08.2015 and quash the same and consequently direct the respondents to revise, refix and settle the pension based on the Revision of Pay of the petitioner after retirement on 31.5.2010 by the proceedings of the fourth respondent in Proc.No.1323/F.WCE/EAIL/2011 dated 28.6.2011 along with arrears of pension and consequential benefits with interest.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.B.Vijay Karthikeyan
Standing counsel

ORDER

Heard the learned counsel on either side.

2.The writ petitioner joined TWAD Board as Rig Helper. He was not having any ITI qualification. During the relevant time, the rig helpers were divided into two categories: a) those with ITI qualification and b) those without ITI qualification. This gave rise to a service dispute and the matter went right



W.P(MD)No.16771 of 2020

up to the Hon'ble Supreme Court. Eventually, the issue was decided and the distinction was done away with. Finally the Managing Director of TWAD Board issued proceedings No.16802/Estt.(Per)/A1/2011, dated 18.05.2011. The operative portion of the said proceedings is as follows:

"In view of the above, it is hereby ordered that,

(i) the pay of Rig Helpers possessing ITI qualification and redesignated as Assistant Drillers and the pay of the Rig Helpers who do not possess the ITI qualification and redesignated as Assistant Drillers be fixed in the scale of pay of Rs.950-1500 with effect from 1.6.1988 notionally and monetary effect from 1.4.1992.

(ii) In view of the fact that the categories like Welder (Special Grade), Welder (Grade.I) Smith as Black Smith, Helper, Turner, Machinist, Tinker and Tool Room Attender have been covered by the clarification issued by the General Manager in his letter dated 30.03.1998, the pay of the above said categories be also fixed with effect from 1.6.188 notionally with monetary effect from 1.4.1992."

3. It appears that some confusion arose on account of the proceedings issued by the Executive Engineer, TWAD Board on 28.06.2011. The Executive Engineer had taken the view that the petitioner has to be given selection grade from year 1991 and the Special Grade from the year 2001. The respondents have now taken the stand in the counter affidavit that this was an erroneous fixation and that the same has subsequently been cancelled.



W.P(MD)No.16771 of 2020

WEB COPY

4. Before this Court, the petitioner categorically states that he is prepared to abide by the terms of the proceedings dated 18.05.2011 issued by the Managing Director of TWAD Board. The respondents are directed to fix the petitioner's pension in the light of the aforesaid proceedings dated 08.05.2011 by the Managing Director.

5. I endorse the stand of the learned standing counsel for the TWAD Board that the petitioner's selection grade can be only with effect from 1998 and special grade with effect from 2008. If by mistake any excess payment had been paid to the petitioner, the same shall not be recovered. This is because, the Hon'ble Apex Court in a judgment in the case of *State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others*, [(2015) 4 SCC 334] has categorically held that the excess pay shall not be recovered from those who are occupying the bottom most rank in the official hierarchy and particularly if they have already retired. Both these features clearly apply to the petitioner herein. The respondents are restrained from recovering from the petitioner.



W.P(MD)No.16771 of 2020

6. This writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2023

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

pnn

To

- 1.The Managing Director,
Tamilnadu Water Supply & Drainage Board,
No.31, Kamarajar Salai, Chepauk,
Chennai -5.
- 2.The Joint Chief Engineer (General),
Tamilnadu Water Supply & Drainage Board,
Chepauk, Chennai-5.
- 3.The Superintending Engineer,
Tamilnadu Water Supply & Drainage Board,
Tirunelveli, Kanyakumari Circle,
Tirunelveli.
- 4.The Executive Engineer,
Tamilnadu Water Supply & Drainage Board,
Maintenance Division,
Tirunelveli - 2.



W.P(MD)No.16771 of 2020

G.R.SWAMINATHAN, J.

pnn

W.P(MD)No.16771 of 2020

14.03.2023