



W.P.(MD)No.5904 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.5904 of 2018
and
W.M.P.(MD)Nos.5782 to 5784 of 2018**

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... Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited,
Represented by its Chairman,
No.144, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai,
Chennai - 600 002.
3. The Secretary,
Tamil Nadu Generation and Distribution Corporation Limited,
Secretariat Branch,
No.144, Anna Salai,
Chennai - 600 002.



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4. The Chief Engineer (Distribution),
Tamil Nadu Generation and Distribution
Corporation Limited,
Madurai Region,
Madurai - 625 007.

5. The Superintending Engineer,
Sivaganga i Electricity Distribution Circle,
Sivagangai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the third respondent vide Letter No. 26709/A3/A31/2016-1, dated 12.06.2017 and consequential orders passed by the fifth respondent in Memo No.007866/Ni.Aa/Ni.Pi.1/Ni.Vu. 2/Kho.Oodhiya Nirnayam/2017 dated 04.10.2017 and Memo No.Me.Pe/SiMiPaVa/Siva/Ni.Aa/Ni.Pi.1/Vu2/Kho.Thanikkai/2018 dated 31.01.2018, quash the same insofar as refixing and reducing the petitioner's pay and ordering recovery from his pay and allowances to the tune of Rs.71,774/- based on the audit objection raised in Audit Slip Nos.15, 18 and 27, dated 24.11.2015, 21.01.2017 and 17.11.2017 respectively.

(Prayer amended vide Court order dated 31.01.2022 in W.M.P.

(MD)No.1155 of 2022 in W.P.(MD)No.5904 of 2018 by ASMJ)

For Petitioner : Mr.A.Rahul

For Respondents : Mrs.M.Maheswari
Standing Counsel



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ORDER

This Writ Petition has been filed to call for the records of the impugned order passed by the third respondent, vide Letter No. 26709/A3/A31/2016-1, dated 12.06.2017 and consequential orders passed by the fifth respondent in Memo No.007866/Ni.Aa/Ni.Pi.1/Ni.Vu. 2/Kho.Oodhiya Nirnayam/2017, dated 04.10.2017 and Memo No.Me.Pe/SiMiPaVa/Siva/Ni.Aa/Ni.Pi.1/Vu2/Kho.Thanikkai/2018, dated 31.01.2018, quash the same insofar as refixing and reducing the petitioner's pay and ordering recovery from his pay and allowances to the tune of Rs.71,774/- (Rupees Seventy One Thousand Seven Hundred and Seventy Four only) based on the audit objection raised in Audit Slip Nos.15, 18 and 27, dated 24.11.2015, 21.01.2017 and 17.11.2017 respectively.

2. The case of the petitioner is that the petitioner was initially joined as Tester Chemical at Thoothukudi Thermal Power Station with effect from 12.06.2002 and she was drawing the scale of pay of Rs.5400-20200+2700/-(Grade Pay). Thereafter, by way of internal selection, she was appointed as Junior Assistant (ADM) at Sivagangai Electricity



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Distribution Circle in the scale of pay of Rs.5400-20200+2200/- (Grade Pay). The petitioner was drawing Rs.2700/- as Grade pay while she was working as Tester Chemical. Subsequently, on being appointed as Junior Assistant with effect from 22.06.2011, the Grade Pay applicable to the post of Junior Assistant was Rs.2,200/-. But taking into account the protection of the pay principle issued in B.P.No.95, dated 20.11.1985, the petitioner continued to draw the same Grade Pay received by her in the previous post. Pursuant to the audit objection, the fifth respondent sought for clarification from the Secretary of TANGEDCO as to whether the Grade Pay of the petitioner has to be reduced. The Secretary, vide impugned letter, dated 12.06.2017, clarified that the petitioner is entitled to Grade Pay at the rate of Rs.2,200/- only and not Rs.2,700/-. Thereby, the present recovery order was passed without considering the subsequent clarification issued by the Secretary on 18.01.2023. Challenging the same, the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that during the pendency of the Writ Petition, the Secretary issued a clarification letter, dated 18.01.2023 clarifying that the persons who are



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subsequently appointed in the lower post, are entitled to receive the same pay as that of the earlier appointment. However, the present impugned order is passed without hearing the petitioner. Hence, this Court may issue a direction to the respondents to issue show cause notice to the petitioner and hear the petitioner and thereafter, pass appropriate orders.

4. The learned Standing Counsel appearing for the respondents would submit that an opportunity will be provided to the petitioner in due process of law.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. It is seen that initially, the petitioner was appointed as Tester Chemical and subsequently, he was appointed as Junior Assistant and her pay was reduced. However, the earlier pay given to the petitioner was sought to be recovered without hearing the petitioner. Hence, the present Writ Petition.



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7. In view of the above, it is seen that the present impugned order is passed without hearing the petitioner. Hence, this Court, without interfering the order impugned in this Writ Petition, permits the petitioner to make an objection before the third respondent within a period of two weeks from the date of receipt of a copy of this order. If any objection is made, the third respondent is directed to consider and pass appropriate orders within a period of two weeks thereafter. This Court extends the interim order already granted by this Court for a period of four weeks till such exercise is over.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.02.2023

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

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1. The Chairman,
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Corporation Limited,
No.144, Anna Salai,
Chennai - 600 002.
2. The Chief Engineer (Personnel),
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Corporation Limited,
No.144, Anna Salai,
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3. The Secretary,
Tamil Nadu Generation and Distribution
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4. The Chief Engineer (Distribution),
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