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W.P.(MD)No.1432 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1432 of 2016

A.Albert

.

... Petitioner

vs.

1.The Chariman,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maaligai,
Chennai – 600 002.

2.The Chief Engineer Personnel,
Tamil Nadu Generation and Distribution
Corporation Limited,
Tamilnadu Electricity Board,
No.144, Anna Salai, Chennai – 600 002.



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3.The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Tamilnadu Generation and Distribution
Corporation Limited,
Tamilnadu Electricity Board,
Madurai - 625 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 2nd respondent in Memo No.298/5/G42/G421/2005-28, dated 24.06.2006 and to quash the same so far as the reducing the scale of pay of the petitioner and consequently, to direct the respondents to revise the scale of pay on par with his juniors and to pay all monetary benefits to the petitioner with in a stipulated time may be fixed by this Court with interest.

For Petitioner : Mr.M.Saravanakumar
For R1 & 2 : No appearance
For R3 : Mr.Arivalagan

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order passed by the 2nd respondent,



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dated 24.06.2006 so far as the reducing the scale of pay of the petitioner and consequently, to direct the respondents to revise the scale of pay on par with his juniors and to pay all monetary benefits to the petitioner with in a stipulated time may be fixed by this Court with interest.

2. The petitioner was appointed in the respondent institution as Driver on 28.03.1996 and promoted as Senior Driver on 16.09.2003. Thereafter, the petitioner submitted “request transfer application” in order to take care of his handicapped daughter on 13.02.2006. The petitioner was transferred from Madurai to Nagercoil, vide order, dated 24.06.2006.

3. The contention of the petitioner is that in the proceedings, the 2nd respondent has quoted that the petitioner's pay would be revised to the initial cadre based on the transfer order. The petitioner submitted several representations in the year 2011 but the respondents failed to consider



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the same. In the meanwhile, the petitioner has attained superannuation and retired from service. Thereafter, the petitioner has filed this writ petition challenging the impugned order, dated 24.06.2006. The contention of the petitioner is because of the lower pay fixation after the transfer order, he has monetary loss which has effect in his terminal benefits and hence, he is drawing lesser pension. Therefore, after retirement, the petitioner has filed this writ petition.

4. The respondents have filed a counter affidavit stating that the petitioner has filed this writ petition after a lapse of ten years and it is hit by delay and laches. The petitioner was serving in Madurai. Based on the petitioner's request, he was transferred to Kanyakumari. In the impugned order, it is categorically stated that the petitioner's request is considered as a special case and his application was allowed with a condition that he is not eligible for travelling allowances, he has to forgo his seniority and he shall take last rank in the post of Driver as on the

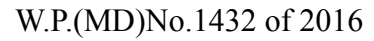


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date of joining duty in Kanyakumari. The petitioner shall be agreeable to get the pay fixed at the post of Driver at the stage which he would be drawn had been continued as Driver without any promotion. The petitioner has accepted the same and submitted a letter of undertaking. The petitioner has affixed his signature on 06.07.2006. Having accepted the conditions, the petitioner cannot turn around and claim that he should be paid the amount that he was drawing while he was in service in Madurai Division. Therefore, the respondents prayed to dismiss the writ petition.

5. After hearing the rival submissions, this Court is of the considered opinion that the writ petition is hit by delay and laches. When the respondents have considered the petitioner's request transfer application with certain conditions, the petitioner ought not to have accepted the condition and ought to have declined to accept the transfer. Having accepted the transfer with certain conditions and executed the



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S.SRIMATHY, J

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