



W.P.(MD)Nos.6990 & 11320 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.6990 of 2016 & 11320 of 2017

and

W.M.P(MD)Nos.5970 of 2016 & 8694 of 2017

M.Lakshmanan ... Petitioner in
W.P.(MD)No.6990 of 2016

A.Muthulakshmi ... Petitioner in
W.P.(MD)No.11320 of 2017

Vs.

1. The Chairman cum Managing Director,
TANGEDCO Limited,
144, Anna Salai,
Chennai – 600 002.

2. The Chief Engineer,
TANGEDCO Limited,
144, Anna Salai,
Chennai – 600 002.

3. The Executive Engineer/East Madurai
Electricity Distribution Circle,
TANGEDCO Limited,
Thirupallai, Madurai.

... Respondents in both the Petitions



W.P.(MD)Nos.6990 & 11320 of 2016

WEB COPY

PRAYER in W.P.(MD)No.6990 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records on the file of the 3rd respondent relating to the order issued in Ku.Aa.No. 13941-2/Nee Bee 3/Ee Nee vou-2/Co-Audit – 2010-1/2016 dated 08.03.2016 and quash the same.

PRAYER in W.P.(MD)No.11320 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for records on the file of 3rd respondent relating to the order issued in Ku.Aa.No.SePo/ Ki/ Mathu/ O.Ni.A/ Ka.Me/ Ka.O.6/ Ko.Vaaria Thanikkai/ A.No. /17, dated 22.05.2017 and Ku.No.Se.Po/ Ki/ Thirup/ Mathu/ O.Ni.A/ Ni.Pi/ O.2/ Ko./ Palavagai/ A. 957/ 17, dated 26.05.2017 and quash the same.

In W.P.(MD)No.6990 of 2016

For Petitioner : Mr.S.C.Herold Singh

For Respondents : M/s.M.Parameswari
Standing Counsel

In W.P.(MD)No.11320 of 2017

For Petitioner : Mr.V.Muthuvelan

For Respondents : M/s.M.Parameswari
Standing Counsel



W.P.(MD)Nos.6990 & 11320 of 2016

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COMMON ORDER

Since the issue involved in both the Writ Petitions are similar in nature both the writ petitions are taken up together and disposed of by a common order.

2. These writ petitions are filed challenging the impugned recovery order passed by the 3rd respondent.

3. The petitioners were initially appointed as Office Helper. As per Section 33(b) of the Tamil Nadu Electricity Board Service Regulations, they were selected as Junior Assistant through internal selection and joined the post as Junior Assistant. The post of Junior Assistant is higher than the Officer Helper. Based on the B.P.(CH)No.152, (Adm. Branch) dated 05.05.2007 and B.P.(CH)No. 184 (Adm. Branch) dated 28.06.2007, the petitioners were allowed to fix the scale of pay under Section 33(b) of the Tamil Nadu Electricity Board Service Regulations, since the post of Junior Assistant carries duties and responsibilities, higher than the Record Clerk and Officer Helper. However, the respondents have changed



W.P.(MD)Nos.6990 & 11320 of 2016

WEB COPY

their policy decision and further issued B.P.Ms.17 (Admn. Branch) dated 08.03.2010, whereby the earlier two Board proceedings were withdrawn. Based on the withdrawal of the earlier Board proceedings, the respondents have initiated recovery proceedings through the impugned order. Aggrieved over the same, the petitioners are before this Court.

4. The similar issue was challenged before this Court in writ petition filed in W.P.No.25240 of 2010, this Court vide order, dated 15.10.2012, has elaborately considered the same and has rejected the recovery. However, re-fixation was allowed subsequent to the Board proceedings in B.P.(CH)No.17 dated 08.03.2010. The relevant portion is extracted hereunder:

“The Tamil Nadu Electricity Board is hereby decided that the internal selection is not a promotion and for fixation of pay the orders issued in (Per.)B.P.(FB) No.95, dated 20.11.1985 is allowed to the employees who have been appointed as Junior Assistant/Administration and Accounts from the Cadre of Records Clerks and Officer Helpers in Class IV Service. Hence, the (Per.) B.P.(CH) No.152, (Adm. Branch), dated 05.05.2007 and (Per.)B.P. (CH)No.184 (Adm. Branch) dated 28.06.2007 which was already issued is hereby withdrawn.”



W.P.(MD)Nos.6990 & 11320 of 2016

WEB COPY

5. The learned Standing counsel appearing for the respondents submitted that based on the B.P.(CH)No.17 dated 08.03.2010 the petitioners' salary was also refixed. The recovery is dropped as per above order. Therefore, this Court is of the considered opinion that the impugned order issued by the 3rd respondent is liable to be quashed and it is hereby quashed. The respondents are entitled to refix, but not entitled to recover.

6. Accordingly, this Writ Petition is allowed in aforesaid terms. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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13.06.2023



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W.P.(MD)Nos.6990 & 11320 of 2016

To

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W.P.(MD)Nos.6990 & 11320 of 2016

S.SRIMATHY, J

ksa

**Common Order made in
W.P.(MD)Nos.6990 & 11320 of 2016**

13.06.2023