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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.14432 of 2020
and W.M.P.Nos.17920 & 17922 of 2020

K.D.Felix Prabhakaran,
Accounts Supervisor,
O/o.Executive Engineer (O&M) Urban,
Karur Electricity Distribution Circle,
TANGEDCO.

...

Petitioner

versus

1.The Chairman cum Managing Director,
TANGEDCO Ltd.,
No.144, Anna Salai, Chennai - 2.

2.The Secretary,
TANGEDCO Ltd.,
No.144, Anna Salai, Chennai - 2.

3.The Chief Engineer / Personnel,
TANGEDCO Ltd.,
No.144, Anna Salai, Chennai - 2.

4.The Superintending Engineer,
Karur Electricity Distribution Circle,
TANGEDCO, Karur.

5.The Executive Engineer / O&M, Urban,
Karur Electricity Distribution Circle,
TANGEDCO, Karur.

...

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned proceedings passed by 1st respondent vide (Per) FB TANGEDCO Proceedings No.11 (Secretariat Branch), dated 30.03.2020 and quash para 5 and consequential order of recovery passed by the 5th respondent vide Ku.Aa.No.2814/438-2Ni.P/U1/Ko.JA(Accts)/2020, 21.07.2020, and quash the same and consequently direct the respondents to grant existing pay to the petitioner.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.Purushothaman
Standing Counsel

ORDER

Heard Mr.S.N.Ravichandran, learned counsel for the petitioner and Mr.K.Purushothaman, learned Standing Counsel for the respondents and perused the materials available on record.

2. The petitioner, who was appointed as a Junior Assistant was given with the benefit of the Board Proceedings in B.P.Ms.No.750 dated 30.04.1979 accordingly and he was given with 2 increments for acquiring B.Com degree. However, the impugned order has been passed on



30.03.2020 by stating that such increment is not allowed to be given to the petitioner.

3. Mr.K.Purushothaman, learned Standing Counsel for the respondents submitted that B.P.Ms.No.750 dated 30.04.1979 has been cancelled and the said cancellation was done in pursuant to the Government Order passed in G.O.Ms.No.97, Personnel and Administrative Reforms Department, dated 05.07.2010.

4. However, Mr.S.N.Ravichandran, learned counsel for the petitioner submitted that B.P.Ms.No.750 dated 30.04.1979 cannot be cancelled, in view of the undertaking given by the respondents in W.P.No.24641 of 2010 and in the said judgment, it has been mentioned as under:-

“On behalf of respondents 2 and 3, an affidavit, dated 01.11.2010, has been filed wherein the following undertaking has been given:-

"a) The terms and conditions of the existing employees of the Board upon transfer to the Corporate entities shall not



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be inferior / detrimental to the present terms and conditions in the Board.

b) The Board hereby undertakes / guarantees that there shall be no retrenchment of the existing employees on account of restricting and their status / service conditions shall not in any way be less favourable to them if there had been no such re-organization.

c) The principles and/or terms and conditions of service of the existing employees in matters like promotions, appointments, internal selections, transfers, leave, all allowances, etc, regulated by existing regulations/service rules are guaranteed to continue to be the same during transition and upon permanent transfer to the respective successor entity of the Board, unless and until a new set of rules, regulations certified standing orders is/are introduced by the successor entity and come into force in accordance with law.

d) The Board unconditionally guarantees the payment of pension, family pension, retirement/death benefits such as gratuity, encashment of earned leave and the existing benefits including GPF and periodical dearness allowance relief and all other terminal/applicable benefits that are in



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force to all existing pensioners/family pensioners/other eligible persons.

e) The Board shall made appropriate arrangements to ensure that the interest of the employees are protected in respect of retirement benefits of existing employees such as GPF, Contributory Provident Fund, Gratuity, etc.”

2. I respectfully submit that the above undertaking which is also in line with the impugned G.O.Ms.No.100, Energy (EZ) Department dated 19.10.2010 shall be honoured without any demur and it is prayed that this Hon'ble Court may be pleased to accept the undertaking and pass appropriate orders, to proceed further with the Government Order."

2. The said affidavit of undertaking is taken on file and the same is recorded.

3. Learned standing counsel appearing for the second and third respondents would submit the trifurcation has already been taken place.”

5. The above Writ Petition has been filed consequent to the passing of the Government Order in G.O.Ms.No.100, Energy (EZ)



Department dated 19.10.2010 for trifurcation of the then TNEB. Having given such an undertaking, the terms and conditions of services of the existing members should not be affected.

6. The alleged Board Proceedings No.25 dated 24.05.2014 has been issued only subsequent to the order passed in W.P.No.24641 of 2010 dated 27.01.2011. So the petitioner challenges not only the recovery but also the refixation consequent to the impugned order dated 30.03.2020. Having given such an undertaking before the Court during the proceedings involved in G.O.Ms.No.100, Energy (EZ) Department dated 19.10.2010 and before the trifurcation was completed, it is unfair on the part of the respondents to pass any order to cancel B.P.Ms.No.750 dated 30.04.1979.

7. So the impugned order dated 30.03.2020 which cancelled the earlier double incentives given to the petitioner for acquiring B.Com degree pursuant to the settlement in B.P.Ms.No.750 dated 30.04.1979 is unfair and illegal. Since no recovery has been made so far, there need not be any order for refund.



In the result, this Writ Petition is **allowed** and the impugned proceedings passed by the 1st respondent dated 30.03.2020 is hereby quashed. No costs. Consequently, connected Miscellaneous Petition is closed.

06.03.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

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R.N.MANJULA, J.

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