



W.P.Nos.15449 & 16175 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.Nos.15449 & 16175 of 2020

and

W.M.P.Nos.19301, 19302 & 20184 of 2020

K.Jayanthi

...Petitioner
in W.P.No.15449 of 2020

P.Thangaraj

...Petitioner
in W.P.No.16175 of 2020

-Vs-

1.Tamil Nadu Generation and Distribution Corporation Ltd
(TANGEDCO),
Represented by its Chairman cum Managing Director,
144, Anna Salai,
Chennai – 2.

2.Tamil Nadu Generation and Distribution Corporation Ltd
(TANGEDCO),
Represented by its Secretary,
144, Anna Salai,
Chennai – 2.

3.The Chief Internal Audit Officer,
Audit Branch,
Tamil Nadu Generation & Distribution Corporation Ltd
(TANGEDCO), Chennai – 2.

...Respondents
in both petitions



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Prayer in W.P.No.15449 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in (Per) FB TANGEDCO proceedings No.11 dated 30.03.2020 on the file of the respondent No.2 and quash the same as arbitrary, illegal and ultravires and consequently direct the respondents to disburse pay and allowance at the present pay scale to the petitioner without any deduction, reduction or recovery and pass such further orders.

Prayer in W.P.No.16175 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, calling for the records of the proceedings of the 2nd respondent in (Per) FB TANGEDCO proceedings No.11 dated 30.03.2020 and quash the same as illegal and pass such further orders.

For Petitioner
in W.P.No.15449 of 2020 : Mr.B.Balaganesh

For Petitioner
in W.P.No.16175 of 2020 : Mr.P.Sivamani

For Respondents
in both writ petitions : Mr.K.Raj Kumar
Standing Counsel



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COMMON ORDER

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Facts in W.P.No.15449 of 2020

- a) The case of the Petitioner is that he was selected as a Typist under Direct Recruitment in Class-III Service of the TANGEDCO on 18.05.2017 and allotted to the Audit Branch/3rd respondent on 20.05.2017. He was fixed pay on 03.06.2017 by the 3rd Respondent in the pay band of Rs.5400-20200 + 2200 GP with effect from 20.05.2017. Thereafter, the Petitioner was appointed as Junior Auditor on 05.06.2018 by conversion from the Typist category by the 3rd respondent in the Pay Matrix of Rs.19500-62000 plus allowance and was promoted as Auditor (Class III Service Division VI-B Category 1) on 21.06.2019 by the 3rd respondent with effect from 31.05.2019 ??.
- b) The Petitioner was granted two incentive increments on 06.07.2017 for passing B.Com Degree examination held during April 2011 as per B.P. Ms.No.750 dated 30.04.1979 with effect from 20.05.2017, and the pay was raised from Rs.5400 + Rs.2200 GP + Rs.80 Spl. Pay to Rs.5860 + Rs.2200 GP + Rs.80 Spl. Pay in the pay band of Rs.5400-20200 + 2200.



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c) The 2nd Respondent passed the impugned order in (Per) FB TANGEDCO Proceedings No. 11 dated 30.03.2020, ordering dispensation of advance increment granted to Accounts & Audit employees with effect from 24.05.2014 and for recovery action, and further issues (Per) FB TANGEDCO Proceedings No.16 dated 28.05.2020 confirming Proceedings No.11 dated 30.03.2020. Aggrieved by the same, the Petitioner has come up with the present Writ Petition.

Facts in W.P.No.16175 of 2020

- a) The petitioner joined the respondents Department on 31.7.2010 as an assessor and as he got B.Com degree, he was earlier promoted as Junior Auditor and is now being promoted as an Auditor and is serving as an Auditor by getting necessary eligible increments.
- b) The Petitioner was served with a memo in No.25622/1517/F.1/F.12/2020 dated 03.09.2020 and on 09.09.2020, wherein he was intimated to submit his explanation for cancellation of sanction of incentive increments as the Auditor joined through the transfer method dated 19.08.2016. The above said memo referred to



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proceedings dated 30.03.2020 (PER) FB TANGEDCO Proceedings

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No. 11 and also further called upon as to why the two advanced incentive increments already sanctioned with effect from 19.08.2016 should not be recovered. Aggrieved over the same, the petitioner has filed the present writ petition challenging the said proceedings seeking for quashing of the said Government Order.

2. Learned senior counsel appearing for the petitioners would submit that the impugned order passed by the second respondent in (Per) and FB TANGEDCO proceedings No.11 dated 30.03.2023 has already been quashed by this Court in W.P.No.14432 of 2020. **Aggrieved by the said order, the respondents have preferred a writ appeal along with a petition to condone the delay of 115 days, which is in SR stage.**

3. Heard both sides and perused the materials available on record.

4. The order passed by the learned Judge of this Court in the case of **K.D.Felix Prabhakaran, Accounts Supervisor, O/o.Executive Engineer (O&M) Urban, Karur Electricity Distribution Circle, TANGEDCO. Vs.**



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The Chairman cum Managing Director, TANGEDCO Ltd., No.144,

Anna Salai, Chennai – 2, in W.P.No.14432 of 2020 dated 06.03.2024,

which held as follows:

".....6. 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.

7. 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.

8. 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....."

5. In view of the above facts and circumstances of the case and the above order passed by this Court in a similar W.P.No.14432 of 2020, the impugned order passed by the second respondent in (Per) and FB



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TANGEDCO proceedings No.11 dated 30.03.2020 is liable to be quashed accordingly the same is hereby quashed, and this Court is inclined to pass the following directions:

- i. The 3rd respondent is directed to issue a fresh notice to the petitioners within a period of four weeks from the date of receipt of a copy of this order.
- ii. On receipt of such notice, the petitioners are directed to submit their explanations/replies/objections within a period of four weeks thereof.
- iii. On receipt of such explanations/replies/objections, the 3rd respondent shall consider the same subject to the outcome of the judgment in writ appeal, which has been filed challenging the order passed by this Court in W.P.No.14432 of 2020 quashing the impugned order passed by the second respondent in (Per) and FB TANGEDCO proceedings No.11 dated 30.03.2020.

In the result, the **writ petition stands disposed of with the above observations and directions.** No costs. Consequently, connected miscellaneous petitions are closed.

16.12.2024

cda



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Index : Yes/No
Speaking/Non Speaking order

J.SATHYA NARAYANA PRASAD, J.

cda

To

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd
(TANGEDCO),
144, Anna Salai,
Chennai – 2.
- 2.The Secretary,
Tamil Nadu Generation and Distribution Corporation Ltd
(TANGEDCO),
144, Anna Salai,
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- 3.The Chief Internal Audit Officer,
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