



W.P.No.15406 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.15406 of 2020

R.Venkatesan

...

Petitioner

/vs/

1. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai – 2.

2. The Chief Engineer / Personnel,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Administrative Branch,
No.144, Anna Salai,
Chennai – 600 002.

3. The Superintending Engineer,
Nagai Electricity Distribution Circle,
Nagapattinam,
Nagapattinam District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to
issue a writ of certiorarified mandamus to call for the entire records connected



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with the impugned order of the second respondent passed the impugned order of rejection in Letter No.12227/58/G.1/G.1[2]/2020-3 dated 23.03.2020 quash the same and directing the respondents to give promotion to the petitioner as Junior Engineer Grade – I notionally from the date of junior promotion date and give pay revision and notional fixation of pay, annual increment and all other benefits by taking into account the benefits given to the petitioner by the third respondent proceeding dated 23.07.2018.

For Petitioner ... Mr.P.Ganesan

For Respondents ... Mr.K.Purushothaman
Standing Counsel for TNEB

ORDER

The petitioner has filed this Writ Petition challenging the impugned order of rejection passed by the second respondent in Letter No.12227/58/G.1/G.1(2)/2020-3 dated 23.03.2020 and to direct the respondents to give promotion to the petitioner as Junior Engineer Grade – I notionally from the date of his junior's promotion and all other benefits.



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2. Mr.P.Ganesan, the learned counsel for the petitioner, submitted that the petitioner has filed an Industrial Dispute in I.D.No.77 of 1998 seeking reinstatement with continuous service and back wages by setting aside the order of removal issued against him on 27.02.1997 and the same was partly allowed on 07.06.2010 by directing the respondent therein to reinstate the petitioner with continuity of service and other benefits without back wages; the award has not been challenged neither by the petitioner nor by the respondents and hence it becomes finality and on 04.02.2011 the petitioner got reinstated.

2.1 The grievance of the petitioner is that while granting the order in respect of payment of pension and other final payment including the revision of pay, the petitioner was not given with the benefit of continuity of service as allowed in the award dated 07.06.2010; the petitioner has submitted a representation by stating that his scale of pay and final payment along with pension has to be fixed on par with his junior by name V.G.Thirunavukkarasu; even though it is accepted by the second respondent that V.G.Thirunavukkarasu is the immediate junior of the petitioner, the second



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respondent disallowed the prayer of the petitioner on 23.03.2020 and the petitioner's scale of pay was not revised in terms of the award.

3. Mr.K.Purushothaman, the learned Standing Counsel for the respondents, submitted that the petitioner's seniority was restored above his immediate junior only in view of giving him the service benefits as per the award and hence the award has been duly complied.

4. There is no dispute that the petitioner got reinstated in pursuant to the award passed in I.D. No.77/1998 dated 07.06.2010. Despite the award clearly states that the petitioner is entitled to continuity of service and all other attendant benefits, but without back wages, the second respondent had not chosen to extend the service benefits and all other attendant benefits. Even though the petitioner's seniority was restored above his immediate junior, while fixing the pay, the scale of pay of the petitioner was not fixed notionally during the period when the petitioner was under dismissal of service. Even though the petitioner is not entitled to the monetary benefit in respect of the next level promoted post before he assumed charge in the said post, the



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notional benefit of fixing the scale of pay ought to have been given to him.

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5. The petitioner got retired on 30.04.2016. Had the service benefits in terms of notional increment and fixation of pay has been done, the petitioner would have got a higher pension and better terminal benefits at the time of his retirement. The petitioner's scale of pay ought to have been revised on par with his juniors by giving notional benefits until the period he joined in service and thereafter the monitory benefit as well. Since the impugned order does not speak about the same but simply states that the new scale of pay and revision of final payment and pension has been paid to the petitioner on par with his junior, the impugned order is liable to be set aside. Since the petitioner's entitlement has not been properly considered and while promoting him to the higher grade, due notional benefit were not extended, the petitioner's scale of pay is liable to be revised by extending the above benefit and refixation has to be done by passing appropriate orders.

6. It is needless to state that the corresponding impact of the above pay



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revision will also have effect on the pension and other benefits for which the petitioner is entitled to. Hence, I feel the respondents should be directed to reconsider the petitioner's representation and pass orders.

7. With the above observation, this writ petition is partly allowed and the impugned order passed by the second respondent in Letter No.12227/58/G.1/G.1(2)/2020-3 dated 23.03.2020 is hereby set aside and the respondents are directed to reconsider the petitioner's representation dated 28.03.2016 and pass fresh orders in tune with the above direction, within a period of six weeks from the date of receipt of a copy of this order. No costs.

08.02.2024

Index: Yes / No
Speaking order/Non-speaking order
Neutral Citation : Yes / No
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R.N.MANJULA ,J.

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