



W.P.No.5223 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.07.2024

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

W.P.No.5223 of 2016

and

W.M.P.No.4595 of 2016

A.Chokalingam

... Petitioner

-Vs-

1.The Chief Engineer, (Personnel),
TANGEDCO,
No.144, Anna Salai,
Chennai-2

2.The Superintending Engineer,
TANGEDCO,
Dindigul Electricity Distribution Circle,
Dindigul.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 1st respondent to make the payment of surrender of earned leave amounting to Rs.4,77,589/- and unearned leave payment of Rs.1,84,476/- with interest calculated at 12% per annum from 1.5.2015 till the date of payment and pension payable from May



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2015 continuously.

For Petitioner : M/s.S.Elamurugan

For Respondents : M/s.K.Purushothaman,
Standing counsel.

ORDER

The above writ petition has been filed to direct the 1st respondent to make payment to the petitioner for the surrender of earned leave totalling a sum of Rs.4,77,589/- and unearned leave payment of Rs.1,84,476/- with interest calculated at the rate of 12 % p.a. From 01.05.2015 till date of payment and pension payable from May 2015 continuously.

2. The petitioner would submit that he had joined the services of the respondents Board as a Helper on 06.12.1982 and thereafter promoted as a Cleaner (Vehicle Helper) on 04.07.1984 and promoted as a Driver on 04.03.1993 and as a Senior Driver on 22.05.2001.

3. The petitioner would submit that his next avenue of



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promotion was to the post of Heavy Vehicle Driver. While so, owing to a departmental enquiry and subsequent punishment of stoppage of increment for a period of 2 years with cumulative effect and compensation for the damage caused to the vehicle, the petitioner was not given the promotion. The said punishment was thereafter reduced by the Appellate Authority as a stoppage of increment for a period of 2 years without cumulative effect. The said punishment started running from the date of the order of the original authority dated 04.06.2007. The petitioner would submit that he was once again issued with a charge memo which ended in a punishment of stoppage of increment for a period of 2 years without cumulative effect. Both these punishments had come to an end on 30.06.2011.

4. The petitioner would submit that the promotion committee had convened a meeting on 09.01.2012 and since no punishment was pending the petitioner's name was included in the panel for promotion for the post of Heavy Vehicle Driver and he was also promoted by proceedings dated 02.03.2012. The petitioner had joined



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the duty as a Heavy Vehicle Driver on 21.03.2012. While so, the 2nd respondent by his memo dated 12.02.2013 had cancelled the promotion. The petitioner had submitted a representation dated 04.03.2013 requesting the 1st respondent to set aside the order of reversion since there was no currency of punishment on the date of the panel or on the date of promotion. The petitioner has also brought it to the notice of the 1st respondent that the Band Pay (BP) referred to in the reversion was not applicable to him.

5. Thereafter, the petitioner had approached this Court by filing W.P.No.7410/2013 challenging the order of the 2nd respondent on 12.02.2013 reverting him from the post of a Heavy Vehicle Driver. The petitioner would submit that he had also obtained an interim order of stay in M.P.No.1 of 2013 and on the strength of the said order, he continued to work as a Heavy Vehicle Driver till the date of superannuation i.e; 30.04.2015. Against this stay order, no vacate stay petition has been filed by the respondents to date. The petitioner would submit that on the date of the retirement he was eligible to the



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following retirement benefits:-

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"1.General Provident Fund

2.Gratuity

3.1st Month Pension

4.Family Security Fund Scheme

5.Special Provident Fund Scheme

6.Special Provident Fund Scheme, 2000

7.(SLS) Surrender of Earned Leave

8.(UEL) un-earned leave."

6. The petitioner was only paid the benefits in Serial Nos.1 to 6 above and the amounts due under Serial Nos.7 and 8 were not paid. The pension payable for the period from June 2015 was also not paid. His representations dated 18.05.2015 and 28.09.2015 have yielded no result and therefore the petitioner has come forward with the writ in question.

7. A counter affidavit has been filed by the respondents in



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which they would submit that the petitioner's punishment would operate till 31.03.2012 and since he had availed 123 days leave during the punishment period, the same gets extended till 03.08.2012 and he was free from punishment only on 04.08.2012. Therefore, the decision of the departmental promotion committee held on 19.01.2012 to include the petitioner's name in the panel for the post of Heavy Vehicle Driver was totally wrong. This mistake was later noticed and steps were taken to correct the same. Therefore, the respondents would justify their order.

8. The respondents would also submit that the petitioner's writ petition challenging the order cancelling the promotion in W.P.No.7410 of 2013 was pending to date. Therefore, the respondents were unable to finalize the petitioner's terminal benefits. The respondents would also submit that the terminal benefits will be sanctioned only on the outcome of the order passed in W.P.No.7410 of 2013.



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9. Heard the learned counsel on either side.

10. In the light of the order passed by this Court in the connected W.P.No.7410 of 2013, wherein the impugned order passed by the 2nd respondent is quashed, the above Writ Petition is allowed as prayed for. Consequently, the connected Miscellaneous Petition is closed.

03.07.2024

(shr)

Index : Yes/No

Speaking / Non Speaking Order

Neutral Citation : Yes/No

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P.T.ASHA. J.,

(shr)

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