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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Contempt Petition No.2827 of 2024
in W.P.No.16123 of 2019

S.Moorthy
Accountant Supervisor
Revenue Section
TANGEDCO
Gobicettipalayam Main Road
Sathuamangalam
Erode District.

.. Petitioner

vs.

1.Dr.R.Sunil
The Chief Engineer (Personnel)
The Tamil Nadu Generation and
Distribution Corporation Ltd.,(TANGEDCO)
Anna Salai
Chennai 600 002.

2.Er.Magesh
The Superintendent Engineer
Kundha Power Generation Circle
TANGEDCO/TNEB
Kundha
The Nilgiris District.

3.Er.D.Shanmugasundaram
The Executive Engineer
O & M-TANGEDCO
Sathamangalam
Erode District.

.. Respondents



Prayer : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents for the disobedience in not complying with the order dated 18.07.2023 passed by this Court in W.P.No.16123 of 2019.

For Petitioner : Mr.M.R.Jothimanian

For Respondent : Mr.P.Kumaresan
Additional Advocate General
Asst.by:
Mr.David Sunder Singh
Standing Counsel

ORDER

The Contempt Petition has been filed complaining that the respondents have not complied in letter and spirit the order of this Court dated 18.07.2023.

2.While adjudicating the writ petition, this Court had passed the following order:

(1) This writ petition has been filed in the nature of certiorarified mandamus, seeking records relating to an order of the 3rd respondent, Executive Engineer, [Operation & Maintenance], TANGEDCO, Sathyamangalam at Erode District in Ku.Aa.No.1356/145/Se.Po/Epe/Sa/Pi/Ne.U-3/Ko.Kattu/2019 dated 22.04.2019 and set aside the same and direct the respondents to fix the pay of the petitioner's salary in accordance with the Board Proceedings dated 21.11.2009 in Personnel Board Proceedings

[CH] No.223, issued by the 1st respondent, Chief Engineer



[Personnel], TANGEDCO, at Chennai.

(2) The writ petitioner Mr.S.Moorthy, is now working as Accounts Officer in the respondents. He had been promoted to that post on 31.03.2012. He was originally appointed as Helper and subsequently, promoted as Junior Assistant on 17.5.1995. He worked as Junior Assistant till 31.03.2012. He was posted initially as Junior Assistant at the 2nd respondent office, namely, The Kunda Power Generation Circle at Nilgiris and had been subsequently transferred to Sathyamangalam in Erode District-3rd respondent office. While he was so employed as Junior Assistant, the Board Proceedings No.223 dated 21.11.2009, came into effect. Since the petitioner has been working as Junior Assistant from 17.05.1995, as a natural corollary, on completion of ten years, he was granted Special Grade pay in the post of Junior Assistant. By the Board Proceedings aforementioned incidentally also applied to Junior Assistants and specifically the post of Junior Assistant had been given in the Schedule to the Board Proceedings. There were various agreements drawn with respect to selection grade and special grade scales of pay. The petitioner is deeply concerned with the interpretation given by the respondents relating to selection grade scale of pay.

(3) The relevant clause in that Board Proceedings is Clause No.3[vii] and also Clause No.4[4], which clauses read thus:-

"3.In pursuance of the Settlement, dated 18.11.2009 referred to in para-2 above, the Tamil Nadu Electricity Board passes the following orders:-

[i]...

[ii]...

[iii]...



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[iv]...

[v]...

[vi]...

[vii] *SELECTION GRADE AND SPECIAL GRADE SCALES OF PAY:- The existing procedure of allowing Selection Grade on completion of 9 years of service, be continued. The pay of such employees who have moved to Selection Grade on or after 01.12.2007 shall be fixed on the date of movement to Selection Grade by granting the benefit of one increment equal to three percent of the Basic Pay including Grade Pay in the same Pay Band and Grade Pay. On and from 01.12.2007, the existing scheme of Special Grade shall be dispensed with and the employees who have completed 10 years of service in the Selection Grade post or 20 years of total service in a post, be moved to Special Grade. The pay of such employees who have moved to Special Grade on or after 01.12.2007 shall be fixed on the date of movement to Special Grade by granting the benefit of one increment equal to three percent of the Basic Pay including Grade Pay in the same Pay Band and Grade Pay."*

.... *4.FIXATION OF PAY IN THE REVISED PAY STRUCTURE:-*

The initial pay of an employee who elects to be governed by the revised pay structure from 1 st December 2007, shall be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended and in respect of his pay in the officiating post held by him, in the following manner namely:-

[1]...

[2]...



[3]...

[4]Where, in the fixation of pay, the pay of employee drawing pay at two or more consecutive stages in the existing scale gets bunched, that is to say gets fixed, in the revised pay structure at the same stage in the pay band, then for every two stages so bunched, benefit of one increment shall be given so as to avoid bunching of more than two stages in the revised running pay bands. For this purpose, the increment will be calculated on the pay in the pay band only and Grade Pay should not be taken into account for the purpose of granting increments to alleviate bunching."

(4) The petitioner claims that since he had been granted selection grade pay which will also naturally include the Grade Pay, he should be granted increment in accordance with Clause 4[4] extracted above, wherein, if the pay is drawn on two or more consecutive stages and gets bunched with the existing scale, then when it is revised, the benefit of one increment should be given for every two stages so bunched. However, for that purpose, the Grade Pay should not be taken. This mean that the basic pay is fixed under the selection grade pay and the pay which is now revised gets bunched so far as the petitioner is concerned since he had already been granted selection grade in the year 2004. The basic pay must be worked out after such bunching of the pay. The Grade Pay must be left out and on the basic pay so worked out, one increment must be given.

(5) On the side of the respondents, reliance is placed on Clause 3[vii] wherein it had been stated that the pay of those employees who had moved to selection grade on or after 01.12.2007 shall alone be fixed on the date of such movement by



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granting the benefit of one increment equal to 3% of basic pay including the Grade Pay. The difference between the stand taken by the petitioner and the stand taken by the respondents is the basic pay to be taken for grant of one increment. The petitioner claims, since there is a concept of bunching the basic pay which was granted as he was getting selection grade and also the revised pay should be taken together and then, one increment should be granted. On the side of the respondents, it had been stated that this would be effective only for those who had been granted selection grade on or after 01.12.2007 and the manner in which the increment should be calculated or increment should be granted, has been given. The petitioner had given a representation seeking refixation of the pay.

(6) In the impugned order, it had only been stated that an opinion was sought from the respondents 2 and 3 and consequent to the opinion received, the 1st respondent had taken a decision that the petitioner is not entitled for refixation of pay. This impugned order conveys no real meaning at all. It is for the 1st respondent to independently apply his/her mind to the representation given by the petitioner and thereafter, examine which particular clause in the Board Proceedings would apply so far as the petitioner is concerned and then, revise the pay accordingly. Even if opinion is sought from the respondents 2 and 3, that opinion must be stated in writing and the reason why that is adopted or that is rejected or that is adopted with some modification, should be stated in the impugned order. There are no reasons given in the impugned order at all. Any quasi judicial authority while passing an order should ensure that the order has clarity so that the person on whom the order is focused



understands why such an order was passed and the reasons behind the passing of such order.

(7) Therefore, the impugned order is set aside and the writ petition stands allowed. A direction is given to the 1st respondent to, on the basis of the opinion already received from the respondents 2 and 3, examine the Board Proceedings and the Clauses referred to above, examine the observations of this Court stated above and then pass a detailed order with reasons as to whether the petitioner is entitled for refixation as he claims or the refixation should be granted by the respondents as they hold he is entitled to. Let a considered order be passed. The entire exercise may be completed within a period of six weeks from the date of receipt of a copy of this order. If the respondents seek any clarification, notice may be issued to the petitioner herein and the representation may be received in this regard and thereafter, orders may be passed. No costs.

3. Thereafter complained that the order had not been put in effect, the contempt petition has been filed. At that time, the respondents had forwarded a copy of the order dated 14.10.2024, wherein, they claimed that the directions in the writ petition had been complied with. But however, it had been contended on behalf of the petitioner that the very same order which had been set aside in the writ petition had been reiterated and that had been no fresh adjudication of the pay scale of the writ petitioner. Therefore, on 15.11.2024, this Court had passed the following order:



A copy of the order dated 14.10.2024 is produced before this Court. It is a replica of the order which had been set aside in the Writ Petition.

2.The learned counsel for the respondents may have work with the official, who passed the said order.

3.List the matter on 22.11.2024.

4.Today, the learned Additional Advocate General had produced a copy of the proceedings dated 21.11.2014 in Memo No.060814/390/G-58/G.581/2024, dated: 21.11.2024. A perusal of the same and comparison of the same along with the earlier order dated 14.10.2024, would indicate that the petitioner had been granted the following additional relief:

“4.Further as per wage revision Regulation after that a service weightage of one increment shall be allowed to those who have completed 15 years of service as on 01.12.2007. Since the individual had completed 16 years of service as on 01.12.2007 he was allowed one service weightage on 01.12.2007”.

5.Therefore taking into consideration the service weightage, one additional service weightage had been granted on 01.12.2007. With respect to the grant of increment, again increment had been granted year after year. The



petitioner however wants increment to be calculated on the basis of the grade pay. But the rules do not provide increment to be calculated on the basis of grade pay. That aspect had been very specifically stated even in the order of the writ petition, wherein this Court had very specifically pointed out as follows in para No.4..... *“The Grade Pay must be left out and on the basic pay so worked out, one increment must be given.”* Thus, the increment can be granted only on the basic pay and not on the grade pay.

6.The learned counsel for the petitioner claims that since the grade pay is left out, an additional increment must be given. That is impermissible in law. There can be only one increment and that would be on the basic pay and on the next year the basic pay would be added to the increment and on that amount the further increment will be granted. If the petitioner is still not satisfied with the order passed dated 22.11.2024, he may take it up in an appropriate manner. But in a contempt petition further enquiries cannot be undertaken in a detailed manner.

7.Contempt Petition therefore stands closed.

29.11.2024

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C.V.KARTHIKEYAN, J.

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