



W.P(MD)No.12472 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.12472 of 2019 and
WMP(MD) Nos.5495 of 2021, 9300 & 9301 of 2019

C.Selvamani

... Petitioner

Vs

- 1.Tamilnadu Generation and Distribution Corporation Ltd.,
Rep. by its Chief Engineer (Personnel),
No.144, Anna Salai, Chennai - 2.
- 2.The Secretary,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai - 2.
- 3.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Sivagangai
Electricity Distribution Circle,
Sivagangai.
- 4.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Karaikudi Division,
Sivagangai Electricity Distribution Circle,
Sivagangai.



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5.The Chief Internal Audit Officer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai – 2.

6.The Assistant Audit Officer,
A.P.6. Audit Branch,
Tamil Nadu Generation and Distribution Corporation Ltd.,
K.Pudhur, Madurai. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, after calling for the records pertaining to the Audit Slip No.11 dated 12.02.2019 issued by the 6th Respondent and the order dated 13/14/03.2019 in Ku.Ah.No.Se.Po/Pa/Karai/Ka.Me/Ko. Thanikkai / A.No.459 and the order dated 22.04.2019 in Ka.No.Se.Po/ Pa/Karai / U.Ni.Ah / Ni.Mi/Ni.Me/ Ni.U.1 / Ko/ Panipathiveedu/A.No. 653/2019 both issued by the 4th respondent quash the same in so far as ordering for recovery of a sum of Rs.2,22,384/- from the petitioner with effect from March 2019 and reducing his basic pay from Rs.88,600/- to Rs.83,500/- and consequently direct the respondents to restore his pay with effect from 13.01.2015 with all monetary and other consequential benefits, award costs.

For Petitioner	: Mr.A.Rahul,
For Respondents	: Mr.Ramanathan Standing Counsel



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ORDER

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The petitioner, a Senior Draftsman working in the Tamil Nadu Generation and Distribution Corporation Ltd., was granted with special Grade increment, on completion of 20 years of service with effect from 13.01.2015 and his scale of pay was fixed as Rs.9600/- + Rs.34800 + Grade pay of Rs.4,300/-. During audit objection, it was found that the petitioner, by his letter, dated 16.03.2007 had relinquished his promotion to the post of Senior Draftsman for a period of three years as a temporary measure, in order to stay in the same station. The period of relinquishment of promotion is liable to be omitted and excluded, while computing the service of the petitioner in the post of Draftsman. However, the said relinquishment period of three years was also included, while calculating the service period for conferment of Special Grade. Therefore, on the objections raised by the Assistant Audit officer, in Audit Slip No.11, dated 12.02.2019, an order of recovery of excess payment of Rs.2,22,384/- has been ordered by the Executive Engineer, Tamil Nadu Generation and Distribution Corporation Ltd., for a period of four years from January 2015 to



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January 2019. The scale of pay of the petitioner was also reduced proportionately from March 2019. Challenging the same, the petitioner has approached this Court in the year 2019.

2.The learned counsel appearing for the petitioner submits that the scheme for grant of Special Grade was modified by the first respondent in his proceedings, dated 05.04.2007, in and by which, the persons, who have relinquished their promotion either temporarily or permanently before 15.10.2015 were made eligible to get special grade on completion of 10 years of service in the same post. The petitioner has relinquished his promotion to the post of Senior Draftsman, by his letter, dated 16.03.2007, as such, he is eligible for promotion. The learned counsel has filed an additional affidavit, wherein, it is stated that the petitioner has relinquished promotion in the year 2017 for a period of three years i.e. 2007-2010. The petitioner was granted with special Grade in the year 2015; Audit objection has been raised that grant of Special Grade in the year 2015 on the premise that a period of 3 years is to be deducted and that the petitioner would become eligible for Special Grade only in the year 2018. According to the petitioner, the



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said Audit objection is without notice, without opportunity to the petitioner and contrary to the Government Order in G.O.Ms.No.880, Personal and Administrative Reforms (Per.s) Department, dated 05.09.1986. The learned counsel further submits that the respondent Corporation has granted an exemption to deduct the period of relinquishment in calculating the period of Special Grade for similarly placed persons, vide letter No.067477/413/G46/G462/2020-3, dated 06.07.2021 and Letter No.008383/22/G34/2023, dated 02.02.2023. Therefore, the petitioner is also entitled for an exemption of deduction of the relinquishment period as that of the other persons.

3.The learned Standing Counsel appearing for the respondent Corporation submits that the petitioner was granted with special grade increment with effect from 13.01.2015, without noticing his letter for relinquishment for promotion, dated 16.03.2007 for a period of three years. Thereafter, on audit objection, it was found that the period of relinquishment has been omitted to exclude for the purpose of computation of the petitioner's service in the post of Draftsman and therefore, an order of recovery has been passed. Hence,



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there is no need to interfere with the same.

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4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The petitioner, a senior Draftsman working in the respondent Corporation has been granted with special grade increment in the year 2015, without verifying his relinquishment letter dated 16.03.2007, which was given by him for a period of three years. Thereafter, on audit objection, it was found and the excess salary paid to the petitioner for the period from 01.01.2015 to 01.01.2019 to the tune of Rs.2,22,384/- was ordered to be recovered from him. The petitioner claims that the order of recovery has been passed without issuing any notice and without providing any opportunity to this petitioner. The petitioner also claims that similarly placed persons have been exempted for deduction of relinquishment period for the purpose of promotion in the year 2021. On perusal of the order of recovery reveals that no notice was issued to this petitioner and also no opportunity was provided to him before passing the order.



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6.In view of the above, the orders impugned in this writ petition are set aside. This writ petition is allowed. The respondent Corporation shall issue a show cause notice to this petitioner, calling upon his explanation and then take a call on this issue and decide the same, in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC:Yes/No

Index:Yes

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