



WP(MD)No.13997 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Bashier

.. Petitioner

v.

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation & Distribution
Corporation Ltd., (TANGEDCO),
Formerly known as TNEB,
N.P.K.R.R. Maaligai, No.144, Anna Salai,
Chennai - 600 002.
- 2.The Superintending Engineer,
Tamil Nadu Generation & Distribution
Corporation Ltd., (TANGEDCO),
Formerly known as TNEB,
Madurai Electricity Distribution Circle,
Madurai Region, K.Pudur, Madurai.
- 3.The Chief Engineer,
Tamil Nadu Generation & Distribution
Corporation Ltd., (TANGEDCO),
Formerly known as TNEB,
Distribution, West,
Arasaradi, Madurai.



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4.The Assistant Executive Engineer,
Tamil Nadu Generation & Distribution
Corporation Ltd., (TANGEDCO),
Formerly known as TNEB,
Distribution, West,
Arasaradi, Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents to grant the monetary benefit for the period from the date of suspension upto the order of dismissal and consequential pensionary benefits to the petitioner, based on the petitioner's representation dated 23.06.2022.

For Petitioner : Mr.P.Krishnasamy

For Respondents : Mr.B.Ramanathan
Standing Counsel

ORDER

The petitioner is a dismissed employee of TANGEDCO. He was issued with a charge memo on 29.05.2008, suspended on 20.10.1998 and after enquiry, he was dismissed from service on 11.02.2002. After 20 years, the petitioner has made a representation dated 23.06.2022, that he was not



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paid with the subsistence allowance during the suspended period and has filed this writ petition.

2.Learned Counsel for the petitioner submitted that the petitioner was repeatedly reminding the respondents to pay the subsistence allowance, but they have not paid the same. Therefore, the petitioner has filed this writ petition.

3.Learned Standing Counsel for the respondents Board submitted that this writ petition is liable to be dismissed on the ground of laches. The petitioner has not raised any demand of subsistence allowance during the suspension period and his whereabouts were also not available. In the enquiry, he was found guilty and was imposed with the punishment of dismissal. In fact, the petitioner has filed various writ petitions during the enquiry and also after the order of punishment. In none of the writ petitions, he has made any such claim. Therefore, this belated claim made by the petitioner, after twenty long years, cannot be considered.



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

5.The petitioner was issued with a charge memo on 29.05.1998, suspended from service on 20.10.1998. Thereafter, the enquiry was concluded with an order of punishment only on 11.02.2002. In the interregnum period, ie., from 20.10.1998 to 11.02.2002, the petitioner is entitled for subsistence allowance, as per Regulation 56(1)(a) of the Tamil Nadu Electricity Board Service Regulations.

For better appreciation, the same is extracted as under:-

“56. (1) An employee who is placed or deemed to have been placed or continues to be under suspension shall be entitled to the following payments, namely:-

(a) Subsistence allowance at an amount equal to the leave salary which the employee would have drawn, if he had been on leave on half pay and, in addition, dearness allowance, if admissible, on the basis of such leave salary:

Provided that where the period of suspension exceeds six months, the authority which made or is deemed to have made the



order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows:-

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding fifty percent of the subsistence allowance admissible during the period of the first six months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons, to be recorded in writing not directly attributable to the employee;

(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding fifty percent of the subsistence allowance admissible during the period of the first six months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons, to be recorded in writing, directly attributable to the employee;

(iii) the amount of dearness allowance will be based on the increase or the decrease in the amount of subsistence allowance, as the case may be, admissible under clause (i) or (ii) above:

Provided further that if an employee under suspension continues to be under suspension after the date of compulsory retirement, the amount of subsistence allowance shall be reduced to the amount of pension which will be provisionally admissible to him, whether or not the employee will be exonerated of the charges



for which he was placed under suspension and the provisions of the preceding proviso shall not apply to such cases. If such employee is not borne on the pension scheme, the amount of subsistence allowance shall be reduced to the pension equivalent of the retirement benefits provisionally admissible to him."

6.This Regulation mandates the respondents to pay the subsistence allowance, irrespective of the fact that the petitioner claims for it or not. Therefore, this Court is not inclined to accept the contention of the Board that since the petitioner has not demanded for the subsistence allowance, it was not paid. The Board is having a responsibility to pay the subsistence allowance as per the Regulations, however, subject to the requirement of Regulation 7(1) of Part II of Tamil Nadu Electricity Board (Discipline and Appeal) Regulations.

For better appreciation, the said Regulation is extracted as under:-

"7.Subsistence allowance during suspension:

1.A Board Employee under suspension is entitled to an allowance called subsistence allowance under the provisions of Regulation 56 of Tamil Nadu Electricity Board Service Regulations and Standing Orders subject to the production of the following certificates:-



(i) *The employee is not engaged in any other employment profession or vocation;*

(ii) *The employee continues to incur the expenditure for which the compensatory allowances are granted."*

7.As per this Regulation, the petitioner is expected to satisfy the employer that he was not gainfully employed in any other employment or profession during the course of suspension.

8.Therefore, this writ petition is disposed of with a direction to the petitioner to submit a fresh representation along with an undertaking that he was not gainfully employed during the relevant period, within a period of three weeks from the date of receipt of a copy of this order. The respondents shall ascertain the same and pass suitable orders, as per Regulation 56 of the Tamil Nadu Electricity Board Service Regulations, after satisfying with the requirements as per Regulation 7(1) of Part II of Tamil Nadu Electricity Board (Discipline and Appeal) Regulations, within a further period of twelve weeks from thereon.



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There shall be no order as to costs.

Index : Yes / No

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NCC : Yes / No

Internet : Yes

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To

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B.PUGALENDHI, J.

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