



W.P.No.15979 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.15979 of 2018

S.Rajagopal

... Petitioner

Vs.

1.The Secretary / General Manager,
Tamil Nadu Water Supply and Drainage Board,
Head Office, Chennai 600 005.

2.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division, Thiruvannamalai,
Thiruvannamalai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in Letter No.B3/18649/Tha.A/OP dated 22.07.2016 and quash the same and direct the respondents to revise the petitioner's pension in accordance with the pay fixation made by the second respondent in Proc.No.F.Rajagopal(Retd)/EA/2013/dt.11.03.2013 and grant him all consequential benefits.



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For Petitioner : Mr.P.Manojkumar

For Respondents : Mr.Krishna Ravindran

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ORDER

This Writ Petition has been filed to call for the records relating to the impugned order of the first respondent in Letter No.B3/18649/Tha.A/OP dated 22.07.2016 and quash the same and direct the respondents to revise the petitioner's pension in accordance with the pay fixation made by the second respondent in Proc.No.F.Rajagopal(Retd)/EA/2013/dt.11.03.2013 and grant him all consequential benefits.

2. Heard Mr.P.Manojkumar, learned counsel for the petitioner, Mr.Krishna Ravindran, learned counsel for the respondents and perused the materials available on record.

3. The petitioner retired from service as an Assistant Driller in Tamil Nadu Water Supply and Drainage Board, Maintenance Division, Thiruvannamalai on 31.08.2007. He was initially appointed as NMR as a



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daily rated employee and brought in the regular establishment with effect from 01.01.1981 on his completion of 480 days of service. He was awarded with selection grade with effect from 01.01.1991 on completion of 10 years of service and special grade with effect from 01.01.2001 on his completion of 20 years of service.

4. As per the board proceedings No.547 dated 04.12.1997, it was ordered that the post of Rig Helper be re-designated as Assistant Driller with the scale of pay of Rs.950-1500. In pursuant to the said Government Order, the petitioner was also re-designated as Assistant Driller with effect from 01.06.1988. In the impugned order, it has been stated that the selection grade and special grade have been awarded to the petitioner in the year 01.01.1991 and 01.01.2001, but, it ought to have been granted with effect from 01.06.1998 and 01.06.2008 respectively. Hence, the petitioner's claim for re-fixation of his pension consequent to his selection grade and special grade awarded to him in the year 01.01.1991 and 01.01.2001 was rejected.



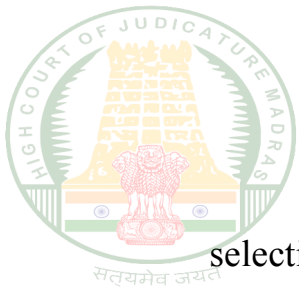
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5. The learned counsel for the petitioner submitted that even when the post of Rig Helper has been re-designated as Assistant Driller, the past service of the petitioner rendered from 01.01.1981 in regular basis as Helper cannot be denied and hence, the selection grade and special grade given in the year 01.01.1991 and 01.01.2001 are correct. He further submitted that the re-designation of the post would not be held against the petitioner's benefit of getting his selection grade and special grade for the services already completed by him before re-designation.

6. The learned counsel for the respondents submitted that similar contention raised by the petitioner in W.P.(MD) No.16771 of 2020 have been negatived through the order dated 14.03.2023.

7. It appears from the above said order that the petitioner therein has conceded to the proceedings issued by the Managing Director for the reasons best known to him. But the said order does not settle the legal point raised by the petitioner whether the petitioner is entitled to get the



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selection grade inclusive of his earlier services or those services rendered by him subsequent to the re-designation alone to be counted.

8. So far as the above position is concerned, that has been settled down by the judgment of the Division Bench of this Court in the case of *The Managing Director, Chennai Metropolitan Water Supply and Sewerage Board, Chennai Vs. M.Umar Farooq Hussain and Others*, reported in 2006 (4) CTC 828 in W.A.Nos.2432 and 2433 of 2003 dated 25.08.2006. The relevant paragraph of the above judgment is extracted hereunder:

"10. But the said submission of the learned Counsel for the appellant does not appeal to us for the following reasons:

(a) By a resolution of the appellant-Board dated 19.5.1986, communicated in the proceedings of the Personnel and Administrative Department, dated 31.7.1986, the posts of 'Demand Servers' and 'Meter Readers' were merged and all persons holding these posts were redesignated as 'Revenue Collectors'. The relevant portion of the communication dated 31.7.1986 reads as follows:



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"Based on the above resolution of the Board, the following orders are issued:

1. The post of 'Demand Servers' and 'Meter Readers' are merged and designated as 'Revenue Collectors' and attached to the respective Area Officers with Divisions as furnished in the Annexure-I."

This would make it clear that what was ordered on 31.7.1986 was a merger of two posts and their redesignation as 'Tax Collector'. Once two posts are merged and re-designated, it virtually means that all the posts are equalised. Therefore, even, if any distinction had been maintained in the past, such distinction between the posts had been wiped out and all the posts had become a common category.

(b) What was ordered on 31.7.1986 was 'merger' and 're-designation' and not 'upgradation'. If it was a case of 'upgradation', it would indicate the intention of the employer to retain the distinction between both the categories. In a case of 'merger' and 'redesignation', the distinction gets wiped out.

(c) After the merger and re-designation of the posts, the service rendered in the post prior to merger, cannot but be treated as qualifying service, in the designated category, for the purpose of Selection Grade.



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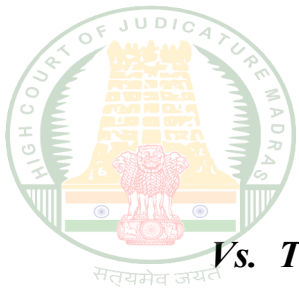


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(d) Even the guidelines issued in the appellant Board proceedings dated 23.10.1992, make it clear that the service rendered in an equivalent post should be taken into account for advancement to Selection Grade Clause (vi) of para-5 of the said guidelines reads as follows:

"(vi) Service rendered in a lower post on other duty should not be taken into account as qualifying service in the higher post for advancement to Selection/Special Grade. The service rendered in an equivalent or higher post on other duty above should be taken into account for advancement to Selection/Special Grades to the extent he should have acted in the original post in the parent Department, but for his deputation."

9. In the above said judgment, it has been held that once two posts are merged and re-designated, it virtually means that all the posts are equalised. Even if any distinction had been maintained in the past, such distinction had been wiped out and all the posts had become a common category. The above analogy has been followed in the order of this Court in *W.P.No.19291 of 2011 dated 15.02.2018, in the case of V.N.Dhanapal*



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Vs. The Chief Engineer and Another and the relief sought by the petitioner therein has been granted.

10. As the post which was re-designated as Assistant Driller was equivalent to that of Rig Helper, it is right for the authorities to count the petitioner's service for awarding selection grade and special grade from the date of his regularisation in the post of Rig Helper which came to be re-designated as Assistant Driller. If the interpretation now given by the second respondent in the impugned order is taken up to be right, then, the petitioner's earlier service from the period between 01.01.1981 to 01.06.1988 will get deleted from the petitioner's qualifying service and it will reflect upon his pensionary benefits as well. Since the petitioner has not been given with pension in tune with his selection grade and special grade allowed to him on the wrong premise that the selection grade and special grade awarded in the year 1991 and 2001 is not correct, the impugned order is liable to be set aside.



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11. In the result, this Writ Petition is allowed and impugned order in Letter No.B3/18649/Tha.A/OP dated 22.07.2016 is set aside and the respondents are directed to revise the pensionary benefits of the petitioner by treating the selection grade and special grade awarded to the petitioner with effect from 01.01.1991 and 01.01.2001 was in the light of the judgment of the Division Bench (*The Managing Director, Chennai Metropolitan Water Supply and Sewerage Board, Chennai Vs. M.Umar Farooq Hussain and Others, reported in 2006 (4) CTC 828*) and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

Index : Yes /No

18.02.2025

Speaking / Non-speaking

Neutral Citation : Yes / No

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To

- 1.The Secretary / General Manager,
Tamil Nadu Water Supply and Drainage Board,
Head Office, Chennai 600 005.
- 2.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division, Thiruvannamalai,
Thiruvannamalai District.



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R.N.MANJULA, J.

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