



W.A.No.2718 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.A.No.2718 of 2022

R.Ramalingam

.. Appellant

Vs

- 1 Tamil Nadu Generation and Distribution Corporation Ltd, Rep. by its Chairman and Managing Director
No.144, NPKKR Maaligai,
Anna Salai, Chennai.
- 2 The Secretary
Tamil Nadu Generation and Distribution Corporation Ltd., No.144, NPKKR Maaligai
Anna Salai, Chennai.
- 3 The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Ltd., No.144, NPKKR Maaligai
Anna Salai, Chennai.



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4 The Deputy Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution
Corporation Ltd., No.144, NPKKR Maaligai
Anna Salai, Chennai.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent to allow the above
Writ Appeal and set aside the order passed in W.P.No.7711 of 2015, dated
02.08.2022.

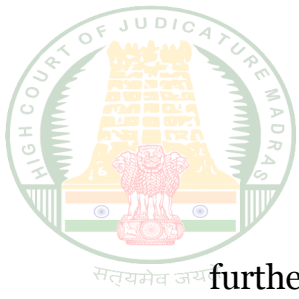
For Appellant : Mr.K.Krishnamoorthy

For Respondents : Mr.K.Rajkumar
Standing Counsel

JUDGMENT

(Delivered by S.S.Sundar, J.)

This appeal is directed against the order of the learned Single Judge dated 02.08.2022 dismissing the writ petition in W.P.No.7711 of 2015 filed by the appellant to quash the proceedings of the third respondent dated 03.01.2012 and the consequential order dated 18.12.2013 issued based on the reply of the Deputy Chief Engineer and to direct the respondents to re-fix the pay of the appellant in the time scale of Rs.2120-80-2600-90-3230-100-3520 with effect from 27.06.1989 on par with the other employees and



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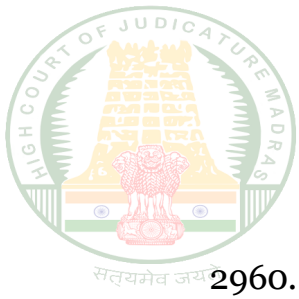
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further direct the respondents to settle the arrears.

2.1. Brief facts that are necessary for disposal of this appeal are as follows:

2.2. The appellant was originally appointed as Pharmacist in the Tamil Nadu Medical Subordinate Service on 20.04.1969. On completion of 10 years of service, the appellant was awarded selection grade in the post of Pharmacist with effect from 22.04.1979. The appellant was deputed to the Tamil Nadu Generation and Distribution Corporation Limited on 19.04.1985. The pay of the appellant was also fixed in the said post by the respondents by way of proceedings dated 25.09.1991.

2.3. It is not in dispute that there was a 12(3) settlement in 1989, pursuant to which, revision of pay was announced by the Board, vide proceedings in B.P. (FB) No.61. The Chairman of the Board has also approved the time scale that was applicable to the appellant as well as others. The pay of the appellant was fixed at Rs.1750-65-2075-75-2450-85-



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1960. Since the pay, on which the appellant was fixed, was less than what was already paid to others pursuant to 12(3) settlement, the appellant had earlier filed a writ petition in W.P.No.4493 of 1996 to quash the order dated 28.08.1995 and the Memo dated 29.12.1995. The said writ petition along with the writ petition in W.P.No.4492 of 1996 filed by one Kesavan were heard together and the learned Single Judge allowed the writ petitions since the order impugned therein was not a speaking order. While disposing of the writ petitions, vide order dated 19.06.2003, a direction was issued to the respondents therein to afford an opportunity of hearing to the appellant and Kesavan and after hearing, pass a detailed and reasoned order within a period of eight weeks from the date of receipt of the copy of the order.

2.4. It is also not in dispute that though the appellant was appointed in 1985 on deputation, his service was regularized by the Board proceedings dated 17.08.1992 absorbing him permanently with effect from 19.04.1985 F.N., when the appellant joined in the Electricity Board.



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2.5. Since the appellant's claim was not considered favourably, he moved a writ petition in W.P.No.7711 of 2015 to re-fix the pay and settle the arrears. The said writ petition was dismissed by the learned Single Judge by the impugned order mainly on the ground of delay and laches. Aggrieved by the same, the appellant is before us.

3. The learned counsel for the appellant has referred to various communications and the direction of this Court in the earlier writ petition.

4. Having regard to the sequence of events and the series of representations made by the appellant to the respondents, this Court is unable to confirm the order of the learned Single Judge dismissing the writ petition solely on the ground of delay and laches. Delay or laches in filing the writ petition can be a factor to non-suit the appellant, if the delay or laches is likely to cause serious prejudice to the other side. However, it is well settled that the authorities cannot resist a claim only on the ground of limitation or laches when facts are not in dispute.



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5. The next point that arises for consideration before us is whether the appellant is entitled to the benefits of settlement under Section 12(3) of the Industrial Disputes Act.

6. The learned counsel for the appellant has produced the Board proceedings dated 31.08.1989 approving 12(3) settlement. It is also brought to the notice of this Court that the appellant was drawing the pay of Rs.1820-60-2300-75-3200 after the aforesaid Board proceedings adopting 12(3) settlement. However, the pay of the appellant was revised downwards by stating that the appellant was not entitled to the benefit of the aforesaid Board proceedings dated 31.08.1989. While passing the order impugned in the writ petition, the Board has ignored the proceedings dated 17.08.1992 issued by the Chief Engineer/Personnel of the Tamil Nadu Electricity Board regularizing the services of the appellant in the respondent Board with effect from 19.04.1985 F.N. Therefore, this Court is unable to agree with the submission made by the learned counsel for the respondents saying that



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the benefit of 12(3) settlement, which was approved, is not applicable to the appellant. In view of the conclusion we reached, we are unable to sustain the order of the learned Single Judge.

7. The writ appeal is allowed. The order of the learned Single Judge is set aside. Consequently, the respondents are directed to revise the pay scale of the appellant, in tune with the settlement under Section 12(3) of the Industrial Disputes Act vide Board proceedings dated 31.08.1989 and pay the monetary benefits together with arrears to the appellant within a period of six weeks from the date of receipt of a copy of this judgment. The respondents may, if they so desire, collect particulars from the appellant, after due notice, within four weeks. There shall be no order as to costs.

(S.S.SUNDAR, J.)

(C.SARAVANAN, J.)

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Index : Yes/No
NC : Yes/No
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