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WA.No.3841/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE C.SARAVANAN

WA.No.3841/2019

1.Samuel Issac [Died]

2.Paripooranam

3.John Selvin Joseph

4.Esther Epcibah

5.Jancy Suganthi

6.Ida Jermimah

... Appellant

**\*\*Appellants 2 to 6 are substituted  
as LR's of the deceased Sole appellant  
vide order dated 22.11.2024 in  
CMP.No.26566/2024 in WA.No.3841/2019**

Vs.

1.The Tamil Nadu Electricity Board  
rep.by its Chairman, No.800, Anna Salai  
Chennai 02.

2.The Chief Engineer [Personnel]  
Tamil Nadu Electricity Board  
No.800, Anna Salai, Chennai 600 002.

... Respondents

**Prayer** : Writ appeal filed under Clause 15 of Letters Patent against the



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order dated 21.07.2011 passed in WP.No.12974/2006.

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For Appellants : M/s.V.Pushpa  
For Respondents : Mr.K.Rajkumar, Standing counsel

JUDGMENT

[Delivered by S.S.SUNDAR, J.,]

(1) This appeal is directed against the order dated 21.07.2011 dismissing the writ petition filed by the deceased sole appellant in WP.No.12974/2006 praying for issuance of a writ of mandamus directing the respondents to fix the pay of the appellant at Rs.1,115/- from 01.01.1986 following Regulation 6[2] of the Tamil Nadu Electricity Board Revised Scales of Pay [Officers] Regulations, 1989 contained in [Permanent] B.P.[F.B.] No.60, Secretariat Branch, dated 24.08.1989 and pay the arrears since the fixation till date and other benefits. Since the writ petitioner/appellant died during pendency of this appeal, his legal heirs are brought on record as appellants 2 to 6.

(2) The writ petitioner joined the services of the Electricity Board on 06.03.1967 as Junior Assistant. One Mr.P.Elangovan also joined on the



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same day as Junior Assistant. Since the pay of the said Elangovan was fixed at Rs.4,115/-, with effect from 01.01.1986, it is contended by the writ petitioner that he is also entitled to the same. Pointing out that the pay anomaly is not supported by any valid reason, the writ petitioner filed the writ petition. The learned Single Judge found that the said P.Elangovan joined the service on the same day and took note of the submission that writ petitioner was shown as senior to Mr.P.Elangovan. Though the writ petitioner was promoted as Assistant on 01.10.1977 along with his junior Mr.P.Elangovan, the learned Single Judge observed that the deceased writ petitioner had not furnishing any details to compare him with Mr.P.Elangovan. Since the details as to the incentives given to the deceased writ petitioner, further qualification of his junior Mr.P.Elangovan and punishment imposed if any, are not given, the learned Judge held that the writ petitioner has not furnished necessary particulars. Finding that the writ petitioner reached the age of superannuation even in the year 1997 and the writ petition was filed in the year 2006, after a lapse of 9 years, the learned Judge found that the writ petition is also liable to be dismissed on the ground of delay and laches as well as for want of



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particulars.

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(3) However, the fact reveals that the writ petitioner submitted a representation well before his retirement on 30.04.2000. Learned Judge has incorrectly recorded that the writ petitioner retired in 1997. The representation of the deceased appellant/writ petitioner is found place in the typed set of papers and the fact that the writ petitioner raised this issue of pay anomaly before his retirement is not in dispute. The learned Judge held that the writ petition is belated only on the assumption that the appellant retired even in 1997. When the writ petitioner has submitted the representation long before retirement and the writ petition itself was filed in the year 2006, this Court is unable to accept the reasoning of the learned Single Judge as the appellant was pursuing his remedy by submitting several representations in the meanwhile.

(4) As a matter of fact, by a communication dated 01.04.2004, the representation of the appellant was considered and he was asked to furnish further particulars. Therefore, this Court is unable to sustain the order of learned Single Judge dismissing the writ petition on the ground of delay and laches.



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(5)Further, the Hon'ble Supreme Court in the case of **M.R.Gupta Vs. Union of India [1995 [5] SCC 628]**, has held as follows:-

*"6.....The claim to be paid the correct salary computed on the basis of proper pay fixation is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a Government servant to be paid the correct salary throughout his tenure according to the computation made in accordance with the rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right or redemption is of this kind. [See **Thota China Subba Rao Vs. Mattapalli Raju** AIR 1950 FC 1 : 50 Bom LR 181 : 1950 [1] MLJ 752]."*

(6)On the merits of the appellants' case on pay anomaly, the respondents have candidly admitted that there is pay anomaly. When pay anomaly is



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alleged by the appellant on the basis of pay that was given to his immediate junior, it is for the respondents to examine on the basis of service particulars. The respondents who were in a better position to furnish particulars, have admitted before the learned Single Judge that higher pay given to Mr.P.Ilangovan, was due to his application for higher pay comparing the pay of his junior. When the pay anomaly is justified by respondents by admitting that the higher salary to Mr.P.Elangovan was on his representation to step up his pay by comparing his junior, this Court is of the view that the writ petitioner is entitled to the relief. Therefore, in the absence of any other reasons than the reasons stated by the respondents, this Court is unable to sustain the order of the learned Single Judge holding that the appellant is not entitled to any relief for want of particulars.

(7)Accordingly, the writ appeal is **allowed** setting aside the order of the learned Singe Judge in dated 21.07.2011 made in WP.No.12974/2006. However, the monetary benefits shall be calculated only from the date of writ petition. No costs.

[S.S.S.R., J.] [C.S.N., J.]  
06.02.2025



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AP

Internet : Yes

To

- 1.The Chairman,  
Tamil Nadu Electricity Board,  
No.800, Anna Salai  
Chennai 02.
- 2.The Chief Engineer [Personnel]  
Tamil Nadu Electricity Board  
No.800, Anna Salai, Chennai 600 002.



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and  
C.SARAVANAN, J.,

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