



W.P.(MD) No.9892 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) Nos.9892, 12355, 12356 and 14381 of 2020
and WMP(MD) Nos.8862 & 8864, 10565 to 10567, 10569 to 10571,
12026 to 12028/2020

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S.Gayatri

... Petitioner

-VS-

1.The Chief Engineer
O/o.the Chief Engineer
Tuticorin Thermal Power Station
Tuticorin, Tuticorin District.

2.The Superintending Engineer,
Purchase and Administration,
Tuticorin Thermal Power Station
Tuticorin, Tuticorin District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Memo.No.1772/Ad,.1/A2/F.Inc/2020



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dated 28.07.2020 on the file of the respondent No.2 and consequential impugned order in K.No.1772-1/U.Ni.A/Sa.Pa.Pi.1/U1/Ko.Thani/2020 dated 10.08.2020 on the file of the respondent No.2 and quash the same as illegal and consequently for a direction, forbearing the respondents 1 and 2 from cancelling the incentive increment granted to the petitioner without providing opportunity of hearing to the petitioner.

WP(MD) Nos.12355&12356/2020

M.Ramamoorthy ... Petitioner
in W.P.(MD) No.12355/2020

A.Selvaganapathy ... Petitioner
in WP(MD) No.12356/2020

P.Jagannathan ... Petitioner
in WP(MD) No.14381/2020

v.

1.Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO)
Rep. by its Chairman cum Managing Director,
144 Anna Salai
Chennai 600 002.

2.Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO)
Rep. by its Secretary (a/c)
144 Anna Salai
Chennai 600 002.



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3.The Chief Internal Audit Officer

Audit Branch

Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO)
Chennai 600 002.

...

Respondents

in W.P.(MD) Nos.12355&12356/2022
and 14381/2020

Prayer:- Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in (Per) FB TANGEDCO Proceedings no.11 dated 30.03.2020 on the file of the respondent No.2 and quash the same as illegal and consequently for a direction, forbearing the respondents from dispensing with the advance increment granted for passing of accountancy lower Grade/Accountancy Higher Grade/B.Com to the petitioner and recovering the same from the petitioner with retrospective effect.

For Petitioners : Mr.T.Lajapathi Roy
Senior counsel for
Mr.S.Rajasekar

For Respondents : Mrs.M.Parameswari

COMMON ORDER

The petitioners have challenged the impugned order in (Per) FB TANGEDCO Proceedings No.11 dated 30.03.2020 of the 2nd respondent and for a direction to forbear the respondents from dispensing with the advance



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increments granted for passing of accountancy lower Grade/Accountancy Higher Grade/B.Com to the petitioner and recovering the same from the petitioner with retrospective effect.

2.The case of the petitioners in nutshell is as follows:

The petitioners in WP(MD) Nos.12355/2020 and 12356/2020 were initially appointed as Assessors and they were subsequently promoted as Junior Auditors on 24.08.2016 and 29.08.2017 respectively. The petitioner in WP(MD) No.14381/2020 was initially appointed as Junior Auditor on 29.05.2017 and the petitioner in WP(MD) No.9892/2020 was initially appointed as Junior Assistant/Accounts on 27.02.2017 in the respondent Board.

2.1. As per Regulation 94 of the Tamil Nadu Electricity Board Service Regulation, for the post of Junior Auditor, the eligible qualification is B.A./B.Sc., or B.Com. If the employees complete Accountancy Lower and Higher, they are eligible for two incentive increments as per the Board Proceedings No.750 dated 30.04.1979. The commerce graduates in the



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accounting cadre of the systems/circle and in the internal audit department, who are exempted from passing the Accountancy Lower and Higher, shall be granted two advance increments from the date following the date of examination or from the date of appointment, whichever is later. As per this proceedings, the candidates, who possessed B.Com., degrees ie., Accountancy, were granted incentive increments.

2.2. However, with regard to other graduates, ie., B.A. and B.Sc., they have to pass the Accountancy Lower and Higher Grades and after passing of the same, they shall be granted two advance increments.

2.3. Accordingly, Gayathri (petitioner in W.P.No.9892/2020) was also granted two incentive increments for having B.Com degree in the year 2015 and the benefit was extended from 23.02.2017 from the date of her joining as Junior Assistant. Likewise, the petitioners in W.P.(MD) Nos. 14381/2020 and 12356 of 2020 were also granted incentive increments for having possessed the B.Com., degree. However, in the case of Ramamoorthy, the petitioner in WP(MD) No.12355/2020, he did not



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possess B.Com., degree and completed only B.A.(History) and therefore, subsequently, he passed the accountancy test in lower and higher grades and thereafter, as per orders dated 09.11.2017 and 29.12.2017, he was sanctioned with two increments for possessing lower and higher accountancy test respectively. His further case is that he has passed the Accountancy lower grade in the year 2010 itself.

2.4. While so, vide G.O.Ms.No.37 dated 10.03.2020, the Government has decided to cancel/dispense with the scheme of sanction of advance increments for acquiring higher qualifications and for passing account test or subordinate officers. While passing such an order, the Government has also clarified in Clause 6(iv) that the advance increments for acquiring higher qualification already granted to Government servants need not be effected any recovery.

2.5. Following the said Government Order dated 10.03.2020, the respondent Board has issued proceedings in Per FB TANGEDCO Proceedings No.16 dated 28.05.2020, whereby cancelling/dispensing the



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advance increments granted to the employees, who passed accountancy lower and higher grade with effect from 24.05.2014. By virtue of the same, the 2nd respondent passed the impugned order dated 28.05.2020, thereby the incentive increments granted to them was ordered to be cancelled and further ordered for recovery of such increments granted. Challenging the said order of cancelling the incentive increment and recovery order, the petitioners are before this Court.

3. The learned counsel for the petitioners would submit that the petitioners are entitled for incentive increments as per the proceedings of the Board. He would submit that however, without notice and without giving an opportunity of hearing, the respondents cancelled the incentive increments and also ordered for recovery, which is per se illegal. He would further submit that the order of recovery ought not to have been passed retrospectively. He would further contend that the TANGEDCO proceedings dated 24.05.2014 is applicable to the post of Junior Assistant, which is an administrative cadre and accounts cadre. However, misunderstanding the board proceedings, the respondents passed the impugned order, which is unsustainable.



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4. The learned standing counsel for the respondents would submit that vide impugned memo dated 28.07.2020, it is clearly stated that as per G.O.Ms.No.37 dated 30.03.2020, incentive increments, which were granted from 24.05.2014 was sought to be recovered from 24.05.2014. She would further submit that there are administrative and audit departments. For the employees, who finished B.Com, while they were entering the services of the respondent Board, since they have already possessed Accountancy, they were exempted from passing the lower and higher grades and they were granted incentive increments at the time of joining and as per the Board proceedings, they are not entitled for two incentive increments and the Board has already issued proceedings to recover the same. However, the petitioners were granted incentive increments, which is violative of the Board proceedings and hence, the impugned order came to be passed, followed by the impugned recovery order. She would further add that adopting the Government order in G.O.Ms.No.37 dated 10.03.2020, the Board, as per the proceedings dated 30.03.2020, ordered recovery, which do not require interference at the hands of this Court and she prays for dismissal.



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5. Heard the learned Senior counsel for the petitioners and the learned standing counsel for the respondents.

6. It is not in dispute that the Government has issued G.O.Ms.No. 37 dated 10.03.2020 thereby cancelled/dispensed the incentive increments granted to the Government servants for possessing higher qualification of accountancy lower and higher grades. It is also to be seen that by adopting the said G.O., the respondent Board has issued Proceedings Nos.11 and 16 dated 30.03.2020 and 28.05.2020 respectively. Thereafter, the present impugned orders have been passed, under which, the incentive increments granted to these petitioners were cancelled and recovery was ordered, which is no doubt, retrospectively.

7. Here in the cases on hand, there are two types of petitioners. As far as the petitioner in WP(MD) No.12355/2020, namely, Ramamoorthy is concerned, initially, he was appointed as Assessor and subsequently, he completed B.A. (History) and thereafter completed accountancy lower grade



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in the year 2010 and higher grade in the year 2017, for which, in the year 2017, advance increments were granted to him as stated supra and thereafter, he was promoted to the post of Junior Auditor.

8. However, the other petitioners, who were appointed as Assessor and Junior Auditors respectively, completed B.Com., degree while entering into the service. Since they possessed B.Com. at the time entering into service, they were exempted from passing the accountancy lower and higher grade and therefore, they were granted with two incentive increments for possessing the accountancy by virtue of B.P.No.750 dated 30.04.1979.

9. It is pertinent to note here that the Government has taken a policy decision to cancel the incentive increments granted to the Government servants by passing G.O.Ms.No.37 dated 10.03.2020, which was subsequently adopted by the respondent Board also. Therefore, rightly the respondent board had cancelled the incentive increments for the servants, who possessed B.Com., degree. However, it is to be borne in mind by the respondents that as per clause 6(iv) of the said G.O., dated



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10.03.2020, the Government had clarified that such increments granted already need not be effected any recovery.

10. However, as far as Ramamoorthy, petitioner in W.P.(MD) No. 12355/2020 is concerned, he completed only B.A. (History) and subsequently passed the accountancy lower and higher grade, for which, he was rightly granted incentive increments and therefore, for whom alone, the impugned order is liable to be interfered with.

11. In respect of other petitioners, who have already possessed B.Com., degree, as per the Board proceedings, rightly the respondents have passed the impugned order and hence, no interference is warranted to the order impugned.

12. In the result,

(i) W.P.(MD) No.12355/2020 is allowed and the impugned order in respect of Ramamoorthy is set aside. It is made clear that the earlier increments paid to the petitioner for accountancy lower and higher cannot



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be recovered from him.

(ii) Insofar as W.P.(MD) Nos.9892, 12356 and 14381 of 2020 are

concerned, for the reasons stated supra, these writ petitions stand dismissed.

However, this Court makes it clear that no retrospective recovery can be made and recovery can only be made after issuance of Board Proceedings dated 28.05.2020.

However, there is no order as to costs. consequently connected miscellaneous Petitions are closed.

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NCC : Yes/No
Index : Yes/No
Internet : Yes

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