

TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LIMITED
SECRETARIAT BRANCH
144, ANNA SALAI,
CHENNAI-2.

Memorandum (Per.) No.38341/A18/A182/2020-2, dated 22.12.2020

Sub: Pension – Claim for sanctioning the difference in DCRG under the Payment of Gratuity Act, 1972 by certain retired officials – Clarification - Issued.

- Ref: (1) B.P. Ms. No.166 (Secretariat Branch) dated 13.04.1982.
(2) Memo.No.31919-M1/82-3(SB) dated 22.11.1982.
(3) G.O.Ms.No.699 Labour and Employment Department dt.16.03.1983.
(4) B.P. Ms. (F.B.) No.5, (Audit Branch) dated 26.06.1986.
(5) (Per) FB TANGEDCO Proceedings No.31 (SB), dated 08.09.2011.
(6) Memo. No. 83647/A18/A183/2011 (SB) dated 14.02.2012.

Of late, instances have been brought to the notice that certain retired officials have submitted petitions to the Assistant Labour Commissioners (Controlling Authorities under the Payment of Gratuity Act), claiming for the difference in gratuity amount, under the payment of Gratuity Act, 1972 and the Assistant Labour Commissioners (Controlling Authorities under the Payment of Gratuity Act) have directed the Superintending Engineers to pay the amount along with interest @ 10% from the date of retirement of the concerned officials till date on which the order is passed, without taking into consideration of the fact that the pensioners of TANGEDCO are not eligible to claim the said amount, as they are covered under the Tamil Nadu Pension Rules, 1978. It has also been brought to the notice that certain Superintending Engineers have taken efforts to challenge the orders passed by the Assistant Labour Commissioner (Controlling Authority under the Payment of Gratuity Act) after obtaining opinion from the Legal Cell.

2. The act of the said pensioners in approaching the Controlling Authorities for Payment of Gratuity with the intention of availing two benefit viz., Pension and Death-cum-Retirement Gratuity as per Tamil Nadu Pension Rules, 1978 and difference in gratuity as per Payment of Gratuity Act, 1972 seems to be unacceptable and unwarranted. This also creates a lot of hardships to the Pension Sanctioning Authorities in dealing with such cases. The difficulties experienced by the Pension Sanctioning Authorities have been examined in detail and it has been

decided to explain the factual position to all the Pension Sanctioning Authorities as below, so as to enable them take a better decision in dealing with such cases:-

- (I) There were two categories of retirement benefits in Tamil Nadu Electricity Board, namely

(i) Pension Scheme

- a) Employees comprising Officers, Clerical staff and certain other categories like Junior Engineer, Store Keeper and Draftsman termed as provincial staff were Employees governed by the Pension Scheme.
- b) Death Cum Retirement Gratuity was admissible to the Provincial cadre.

(ii) Contributory Provident Fund Scheme

- a) Other than the above mentioned categories of staff, the employees were termed as Workmen under Regular Work Establishment. They were governed by the Contributory Provident Fund Scheme.
- b) Gratuity under Payment of Gratuity Act, 1972 was admissible to Regular Works Establishment Workmen.

- (II) The Government, in its order third cited had issued orders, exempting the Tamil Nadu Electricity Board under section 5 of the Payment of Gratuity Act 1972 subject to the condition that the exemption will not be applicable to such of those employees of the Board who do not come within the pension scheme of the Board. Subsequently, orders were issued in the reference fourth cited to the effect that the Regular Work Establishment workmen retiring/expiring on or after 01.07.1986, would be governed by the Pension Scheme of the Board as the benefits under the pension scheme were higher than the Contributory Provident Fund Scheme.

- (III) Further, based on the G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, orders have been issued to count half of the temporary service (NMR/TCL Service) rendered by the employees/pensioners for the purpose of pensionary benefits with effect from the date of issue of orders (i.e.08.09.2011) – vide Board's Proceedings fifth cited. Subsequently, clarification has been issued in the memo. sixth cited that the employees who had retired prior to 08.09.2011 are eligible only for revision of pension based on the period of temporary service rendered by them as Temporary Casual Labourer/Nominal Muster Roll, and not for other penionary benefits.

3. In view of the above, the following instructions are issued to all the Pension Sanctioning Authorities in dealing with the cases pertaining to the claims made by the pensioners for sanctioning the difference in gratuity under the Payment of Gratuity Act 1972:

- i) If the issue is pending before the Assistant Labour Commissioner (Controlling Authority under the Payment of Gratuity Act), necessary action shall be taken to put forth the points mentioned in paragraph - 2 above in a suitable manner so as to obtain orders, rejecting the inadmissible claims of the pensioners;
- (or)
- ii) If an order has been passed by the Assistant Labour Commissioner (Controlling Authority under the Payment of Gratuity Act) in favour of the pensioner, necessary action shall be taken to file an Appeal before the appropriate court, duly explaining the position mentioned in paragraph - 2 above, so as to get favourable orders.

4. The receipt of this Memo. shall be acknowledged.

(BY ORDER OF THE JOINT MANAGING DIRECTOR)

**M.BHAVANI,
SECRETARY**

To

All Chief Engineers. (w.e.)
 All Chief Financial Controllers/TANGEDCO & TANTRANSCO. (w.e.)
 The Chief Internal Audit Officer/Audit Branch. (w.e.)
 All Superintending Engineers. (w.e.)

Copy to:

The Chairman-cum-Managing Director's Table(w.e.)
 The Joint Managing Director's Table(w.e.)
 All Directors of TANGEDCO & TANTRANSCO. (w.e.)
 The Secretary/TANGEDCO/Chennai-2. (w.e.)
 The Legal Adviser/TANGEDCO/Chennai-2. (w.e.)
 The Executive Assistant to Chairman-cum-Managing Director. (w.e.)
 The Executive Assistant to Joint Managing Director. (w.e.)
 All Deputy Secretaries/Under Secretaries in Secretariat Branch. (w.e.)
 All Senior Personnel Officers/Administrative Branch/Chennai-2. (w.e.)
 The Ass Personnel Officer/Tamil Dev. – for publication in the Bulletin (2 copies)(w.e.)

The President/TNEB Retired Officials' Association,
No.14 (Old No.7), 2nd Main Road, Ram Nagar, Chennai-600 082. (w.e.)
The General Secretary/Federation of TNEB Pensioners' Associations,
G2, Plot No.87, Door No.31, Ramyam Apt., Nehru St, Alwarthirunagar, Chennai-87. (w.e.)
The General Secretary/TNEB Pensioners' Progressive Sangam,
No.33, Bootha Perumal Muthali Street, Anna Salai, Chennai-600 002. (w.e.)
The General Secretary/Electricity Board Pensioners' Welfare Organisation,
No.27, Mosque Street, Chepauk, Chennai-600 005. (w.e.)
The General Secretary/Tamil Nadu Electricity Retired Workers' Association,
No.16, 10th East Main Road, Gandhi Nagar, Vellore-6. (w.e.)
The General Secretary/TNEB Retired Employees' & Officers' Association,
No.18, Ellaiyamman Koil Street, West Mambalam, Chennai-600 033. (w.e.)
The State General Secretary/Bharathiya Electricity Pensioners' Federation,
No. 2/3, IIrd Floor, State Bank Street, Anna Salai, Chennai – 600 002. (w.e.)
The General Secretary, TNEB Retried Engineers' Sangam,
No.44, Ramasamy Garden Street, Royapettah, Chennai 600 014. (w.e.)

:: TRUE COPY :: FORWARDED :: BY ORDER ::

Jmboori
23-12-2020
SECTION OFFICER.

✓
23.12.2020