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BEFORE THE HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM

W.P(C) No. 24657 of 2023

Kerala State Electricity Employees
Confederation

:

Petitioner

Vs.

State of Kerala & Others

:


Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENTS 2
AND 3

I, Neelakantan. S, S/o Late N. Subramonia Iyer, aged 51 years, residing at "Poornasree", House No. 22/93C, Kottappuram, Tripunithura, Ernakulam – 682301, working as the Executive Engineer attached to the office of the Standing Counsel for Kerala State Electricity Board Limited, Power House, Ernakulam, do hereby solemnly affirm and state as follows:

1. I am presently working as the Executive Engineer at the Office of the Standing Counsel for KSEBL. I am competent to swear and duly authorized to file this affidavit on behalf of the Respondent nos. 2 to 3. I

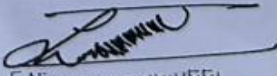



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am conversant with the facts of the case as disclosed from the relevant files and records, kept and maintained at the office of the 2nd respondent. I have read and understood the contents of the above Writ Petition (Civil). The averments contained in the above Writ Petition (Civil) in so far as they are contrary to or inconsistent with the facts stated hereunder are incorrect, untrue and hence denied.

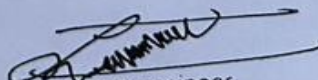
2. It is submitted that the above Writ Petition is not maintainable either in law or on facts. It is submitted that DA revision in KSEB Ltd is being carried out in accordance with the clauses 2(a) to (h) of the Tripartite Agreement of 01.08.2014 which was formulated approved and made applicable at the time of revesting of KSEB from the State Government. The conditions applicable for computing the admissibility and rates of DA eligible for the employees of KSEB Ltd comprising of workmen and officers category are governed by the relevant clauses contained in the Long Term Settlements entered into between recognized trade unions and management which is arrived at as per the provisions of Industrial Dispute Act, 1947 and the clauses contained in Officers Pay Revisions of KSEB Ltd applicable during relevant periods. The pay and DA revisions of employees of KSEBL from time to time are being approved by the Kerala State Electricity Regulatory Commission (KSERC), a quasi judicial Institution which regulates the activities of KSEBL after perusing and scrutinizing the income and expenditure statement of relevant periods.




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3. The DA rates in KSEB Ltd from time to time are determined on the basis of the formula defined by the Labour Bureau of Government of India and by considering Index published by the All India Consumer Price Index (AICPI). Notably the Government of Kerala is also following the same methodology in the case of DA revision of its employees. The Director Board of KSEBL is sanctioning and implementing DA revision in respect of its employees from time to time only after assessing the financial liability being incurred by the KSEBL owing to the revision of DA.
4. The proposal for sanctioning the pending DA/DR due on January, 2022, July, 2022 and January, 2023 to the employees and pensioners of KSEBL was duly submitted on 11.09.2023 to the Financial Adviser for remarks and for ascertaining the approximate monthly additional financial commitment due to the proposed DA/DR hike. Financial Adviser offered remarks as per letter No. FA/Tender2/DA Revision/2023 dated 19.09.2023 on the basis of the details of basic salary and basic pension furnished from the IT wing. Also it has been suggested that on sanctioning the DA/DR hike, the arrears may be ordered to be merged with Provident Fund (PF) for managing liability issues.
5. The precedence followed in this regard is to submit the composite file pertaining to DA/DR revision before the Chairman and Managing Director KSEBL. In furtherance it was directed to place the proposal





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before the meeting of the Board of Directors of KSEBL. As such the same was placed for the consideration of the 73rd meeting of the Board of Directors of KSEBL held on 30.09.2023. The Full Board considered the proposal as Agenda OA 04-09/2023, examined the matter and deferred the same so as to consider in the next meeting of the Board of Directors in which the Director representing Finance department, Government of Kerala may be present which is expected to be held by November 2023.

6. In the circumstances, the above Writ Petition (Civil) is devoid of any force or merit. It is submitted that the petitioner is not entitled to all or any of the reliefs prayed for in the above Writ Petition. The above Writ Petition is liable to be dismissed with costs to the respondents 2 and 3.

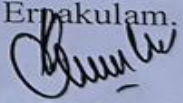
Dated this the 25st day of October, 2023.




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DEPONENT

Solemnly affirmed and signed before me by the deponent whom I know personally on this the 25th day of October, 2023 at my office at Ernakulam.


Antony Muckath
Advocate