

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NOS.15113 AND 15183 TO 15185 OF 2016  
AND WMP NOS.13172, 13173 AND 13225 TO 13230 OF 2016

V.Muthukumar .. Petitioner in all WPs'

Versus

The Assistant Electricity Engineer  
TANGEDCO, Town / West,  
Chidambaram,  
Cuddalore District - 608 001. ... Respondent in all WPs'

PRAYER: Writ petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records relating to the impugned demand proceeding issued by the respondent herein in his proceeding in Ka.No.AEE/E.Para/Tha/Me/Ka.No. / 2016 dated 15.04.2016 and quash the same.

For Petitioner :Mr.K.Raja

For Respondent :Mr.M.Varun Kumar  
Standing Counsel for TANGEDCO

COMMON ORDER

Heard Mr.K.Raja, learned counsel for the petitioner and Mr.M.Varunkumar, learned Standing Counsel for the respondent TANGEDCO.

2.With the consent of learned counsel appearing on either side, all these writ petitions are taken up for final disposal, at the admission stage itself.

3.In all these writ petitions, the petitioner is one and the same person. In these writ petitions, the petitioner has challenged the proceedings of the respondents demanding payment of audit arrears and collection arrears. The preliminary ground, on which, the impugned orders have been challenged is that the same has been issued, without affording any opportunity of personal hearing to the petitioner and without issuing any show cause notice.

4.Further it is submitted that if an opportunity was granted earlier, the petitioner could have raised an objection that the impugned demand is wholly barred by limitation, as it is alleged that the said amount is due and payable for the period from May 2008 to September 2008 (in W.P.No.15113/2016), March 2011, May 2012 and July 2012 (in W.P.No.15183/2016), March 2011 to July 2012 (in W.P.No.15184/2016) and May 2011 to May 2012 (in W.P.No.15185/2016).

5.The learned Standing Counsel accepting notice on behalf of the respondent submitted that the amount payable by the petitioner is an audit arrears.

6.Even assuming that the petitioner is liable to pay the audit arrears, the manner, in which, the impugned demand is issued, is not sustainable. If the petitioner is due and liable, the respondent, ought to have issued a show cause notice to the petitioner, enclosing a copy of the audit objection, audit slip and afford an opportunity of personal hearing to the petitioner and after considering his objections only, such order could have been passed. However, in the instant case, straight away the demand has been issued, which is in violation of principles of natural justice. On this technical ground, the petitioner is entitled to succeed.

7.In the result, all these writ petitions are allowed and the impugned orders are quashed and the matter is remanded to the respondent with a direction to issue show cause notice to the petitioner, enclosing a copy of the audit slips, afford an opportunity to the petitioner to submit his objections and granting a personal hearing, pass fresh orders, on merits and in accordance with law. The above direction shall be complied with by the respondent, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Assistant Electricity Engineer  
TANGEDCO, Town / West,  
Chidambaram,  
Cuddalore District - 608 001.

+3cc to Mr.K.Raja, Advocate sr.25715,25717,25718  
+2cc to Mr.M.Varunkumar, Advocate Sr.25472,25473

W.P.NOS.15113 AND 15183 TO 15185 OF 2016

pa (CO)  
srg(18/05/2016)



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