

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2016

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THE HON'BLE **MR.JUSTICE B.RAJENDRAN**

**W.P. Nos.22893 to 22895 of 2016
and M.P.Nos.19578 to 19586 of 2016**

M.Sahaya Gerald Raj ... Petitioner in W.P.No.22893/2016

K.Puvaneswari ... Petitioner in W.P.No.22894/2016

N.Somasundaram ... Petitioner in W.P.No.22895/2016

Vs.

1.The Chairman cum Managing Director
Tamil Nadu Generation and Distribution Corporation Ltd.
["TANGEDCO"]
Formerly Tamil Nadu Electricity Board
144, Anna Salai
Chennai-600 002.

2.The Secretary
Tamil Nadu Generation and Distribution Corporation Ltd.
["TANGEDCO"]
Formerly Tamil Nadu Electricity Board
144, Anna Salai
Chennai-600 002.

3.The Chief Internal Audit Officer
Board Office Audit Branch
Tamil Nadu Generation and Distribution Corporation Ltd.
144, Anna Salai
Chennai-600 002. ...Respondents in all WPs.

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Memo No.1220/A3/A32/2016-5, dated 28th March 2016 and the consequent, show cause notices bearing Memo No.016449/804/F.1/F.12/2016-2, dated 29th April, 2016, of the 3rd respondent and quash the same, and to forbear the respondents from initiating any action in any manner whatsoever on the basis of the show cause notices bearing Memo No.016449/804/F.1/F.12/2016-2, dated 29th April 2016 and pass such further orders as this Court may deem fit to the facts and circumstances of the case.

For Petitioners	: Mr.T.K.S.Gandhi
in all WPs.	
For Respondents	: Mrs.R.Varalakshmi
in all WPs.	Standing Counsel

COMMON ORDER

The petitioners have come up with these Writ Petitions seeking to call for the records of the 2nd respondent in Memo No.1220/A3/A32/2016-5, dated 28th March 2016 and the consequent, show cause notices bearing Memo No.016449/804/F.1/F.12/2016-2, dated 29th April, 2016, of the 3rd respondent and quash the same, and to forbear the respondents from initiating any action in any manner whatsoever on the basis of the show cause notices bearing Memo No.016449/804/F.1/F.12/2016-2, dated 29th April 2016.

2. According to the petitioners, they were appointed in various posts in the Tamil Nadu Electricity Board, which was subsequently converted as Tamil Nadu Generation and Distribution Corporation Limited ("TANGEDCO"). Subsequently, they got promotions and now, they are working as Assistant Audit Officer and they are entitled to be placed in the panel of seniority list to be considered for promotion to the post of Internal Audit Officer. The grievance of the petitioners is that while so, the 2nd respondent has issued the impugned Memos, dated 28.03.2016, directing the 3rd respondent to revert similarly placed persons like that of the petitioners to the feeder post and to recover the increments already paid on the basis of the order passed by the Madurai Bench of this Court in ***W.P.(MD) No.22865 of 2016, dated 18.12.2015***, directing to implement the Memo (Per) No.20233/A3/A32/2006-24, dated 03.04.2010. Pursuant to which, the 3rd respondent has issued show cause notices, dated 29.04.2016, seeking for explanation within 15 days as to why the petitioners' eligibility should not be reconsidered and to recover the two advance increments already sanctioned. Hence, seeking the relief extracted supra, the present Writ Petitions have been filed.

3. Mr.T.K.S.Gandhi, the learned counsel for the petitioners would submit that so far no recovery has been effected from the salary of the petitioners. He would further submit that the petitioners have already given a letter for extension of four weeks time to submit their explanation, on 13.05.2016. Since, 15 days time is given, the petitioners have sent another letter for extension of further time.

4. Mrs.R.Varalakshmi, the learned Standing Counsel appearing for the respondents, would submit that infact, as per the earlier direction of this Court only they have issued show cause notices calling upon the petitioners to submit their explanations within a time frame, and therefore, the earlier memos or the subsequent, show cause notices cannot be questioned.

4. Heard both sides. By consent, these Writ Petitions are taken up and disposed of at the admission stage itself.

5. Initially, the 2nd respondent has issued the impugned Memos, dated 28.03.2016, directing the 3rd respondent to revert

similarly placed persons like that of the petitioners to the feeder post and to recover the increments already paid on the basis of the order passed by the Madurai Bench of this Court in ***W.P.(MD) No.22865 of 2016, dated 18.12.2015***, directing to implement the Memo (Per) No.20233/A3/A32/2006-24, dated 03.04.2010. Following the same, the 3rd respondent has issued show cause notices, dated 29.04.2016, seeking for their explanation within a time frame. Since, the earlier memos merged with the show cause notices, the petitioners cannot now challenge the same. On a persual of the notices, it is seen that they are show cause notices calling upon the petitioners to submit their explanation within a time frame. As per the judgment of the Hon'ble Supreme Court reported in ***(2004) 3 SCC 440, Special Director vs. Mohd. Ghulam Ghouse and another***, the Writ Petition against a show cause notice is not maintainable and the party should respond to the notice and permit the authority concerned to pass orders.

6. In the light of the judgment cited supra, this Court is of the view that these Writ Petitions, against the show cause notices, are not maintainable and therefore, the same cannot be

entertained. Suffice to state that the petitioners shall give their explanation to the show cause notices, within one week from the date of receipt of a copy of this order and thereafter, the 3rd respondent shall consider the same and pass appropriate further orders, after affording sufficient opportunity to the petitioners, on merits and in accordance with law, as expeditiously as possible. It is made clear that these petitioners are always at liberty to challenge the final order.

7. These Writ Petitions are disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

04.07.2016

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Index: Yes/No
Internet: Yes/No
Note: Issue on 06.07.2016

To

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