

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.27734 of 2016
and
W.M.P.No.23935 of 2016

N.Karthi Ganesh

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation & Distribution
Corporation Limited
(TANGEDCO),
No.144, Anna Salai, Chennai-600 002
2. The Superintendent Engineer,
Chennai Electricity Distribution Circle (CEDC),
Tamil Nadu Generation & Distribution
Corporation Limited
(TANGEDCO),
Thirumangalam, Chennai-600 040
3. The Superintendent Engineer,
Ramanad EDC,
Ramanathapuram

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in Memo No.424/SE/CEDC/West/Admo./ Adm/II/ A2/F.HBA/2016 dated 25.7.2016 and quash the same and consequently direct the respondents to sanction the House Building Advance for purchase of ready built house as per the application submitted by the petitioner dated 29.09.2015, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mrs.R.Varalakshmi

ORDER

The petitioner has come up with the present writ petition, challenging the impugned proceedings of the second respondent dated 25.7.2016 and consequently, to direct the respondents to sanction the House Building Advance for purchase of ready built house as per the application submitted by him on 29.09.2015, within a time frame to be fixed by this Court.

2. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is presently working as Assistant Engineer, Thiruvengada Nagar, Ambattur Division, Chennai Electricity Distribution Circle from 30.6.2015. While he was working as Assistant Engineer, Ramanathapuram, he had a tough time with the Executive Engineer, Kavanoor and one Draughtsman by name Raja Lourdhu Xavier. Since the said Raja Lourdhu Xavier has not forwarded the claim bills made in respect of the works carried out, the petitioner was subjected to serious hardships and sufferings. In this regard, he forwarded a representation to the Chief Engineer, but, the same was not considered.

(b) While so, the said Raja Lourdhu Xavier forwarded a complaint against the petitioner to the Inspector General of Police, Vigilance TNEB, Chennai, on 4.3.2015 and the petitioner has also submitted his explanation for the said complaint. Thereafter, the petitioner was transferred to Chennai based on his request and was allowed to join at Chennai on 30.6.2015. Thereafter, on 29.9.2015, the petitioner submitted an application for House Building Advance for purchase of a ready built house. The employees of TANGEDCO are entitled for HBA as per Tamil Nadu Electricity Board House Building Advance Rules. Subsequently, the rules were amended and accordingly, the applications submitted by the employees are being considered in accordance with the seniority within the quarter and for the purpose of receiving grant from the Secretariat of TANGEDCO, the second respondent being the sanctioning authority, will clear the applications quarter wise by receiving grant from the Head Quarters within the period of next quarter, specifically for the ready built house.

(c) The petitioner's application ought to have been considered based on the seniority within the period of third quarter. However, his application was not considered by the respondents and hence, he made several representations to sanction loan. Since the said representations were not considered, the petitioner filed a writ petition before this

Court in W.P.No.21521 of 2016 and this Court, by an order dated 23.6.2016, directed the second respondent herein to consider his application. In the meantime, the petitioner was issued with a charge memo dated 5.7.2016 by the Superintending Engineer, Ramnad EDC, Ramanathapuram, through the second respondent on the premises that while he was working as Assistant Engineer (Lines) in Ramanathapuram, the Gate Vehicle Register maintained by the security was destroyed and a new register was prepared and on that basis, vehicle rent bill was submitted for approval. Based on the said charge memo, his application for grant of HBA was not considered by the respondents on the premises that a Vigilance enquiry was pending against him. On that basis, the second respondent has called for a report from the Vigilance Department, who in turn, sent a reply stating that no enquiry is pending against the petitioner in the Vigilance Cell. In spite of the same, his application for HBA was not considered. Hence, challenging the same, the petitioner has come up with the present writ petition.

3. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner made his detailed arguments by adverting to the averments made in the affidavit filed in support of the writ petition. Further, he has submitted that the charge memo issued by the Superintending Engineer does not refer to any contingency as stated in the B.P.Ms.(Ch) No.461 dated 12.12.1983. Further more, there cannot be any impediment for the respondents to sanction HBA to the petitioner. Moreover, the property will be mortgaged in the name of the Chairman of the Board. The value of the house is higher than the loan to be sanctioned by the respondents and hence, the grant of HBA is recoverable through secured property. If there is any delay in sanctioning HBA, the ready built house cannot be purchased by the petitioner based on the terms of agreement and the petitioner would be subjected to financial crisis as he has already remitted the advance amount. Hence, the petition.

4. On the other hand, learned counsel appearing for the respondents by filing a detailed counter affidavit, opposed the contentions raised by the learned counsel appearing for the petitioner stating that since the charge memo is pending against the petitioner, his application cannot be considered as per B.P.Ms.(Ch) No.461 dated 12.12.1983. Further, a legal notice was received from one M.Viswanathan from Ramanathapuram claiming that the petitioner had borrowed a sum of Rs.2,00,000/- from him and he had not returned the same. Likewise, a representation dated 23.2.2016 was received from one Rajapandi stating that the petitioner had borrowed a sum of Rs.2,00,000/- from him, for which he had given a cheque and the same was bounced on the ground of insufficient fund. Therefore, the said Rajapandi

filed a complaint under Section 138 of the Negotiable Instruments Act and since the petitioner failed to appear before the Court, warrant has been issued against him and later, he surrendered before the Court and the warrant was cancelled. Further, the Vigilance Cell addressed a letter to the third respondent stating that the enquiry conducted by them would reveal that the petitioner destroyed the vehicle register maintained by the Security and provided false register and has been found substantiated. Further, a request was also made to take action as against the petitioner. In these circumstances, his application for HBA cannot be considered. Thus, he sought for dismissal of the writ petition.

5. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record and I find that the charge memo was issued against the petitioner only for destroying the vehicle register maintained by the Security and hence, the pendency of the charge memo cannot be a ground for denying sanction of HBA to the petitioner. Further, since the petitioner is going to hypothecate the property to be purchased by him with the Chairman, there cannot be any impediment for sanctioning HBA to the petitioner and there cannot be any loss also for the respondents. In such circumstances, I am of the opinion, the prayer of the petitioner could be entertained.

6. In the result, the impugned proceedings of the second respondent dated 25.7.2016 are quashed and the writ petition is allowed. The respondents are directed to sanction the House Building Advance to the petitioner for purchase of ready built house as per the application submitted by him on 29.09.2015, within a period of six weeks from the date of receipt of a copy of this order. However, this order will not have any bearing in the other proceedings pending against the petitioner before the respondents. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

sbi

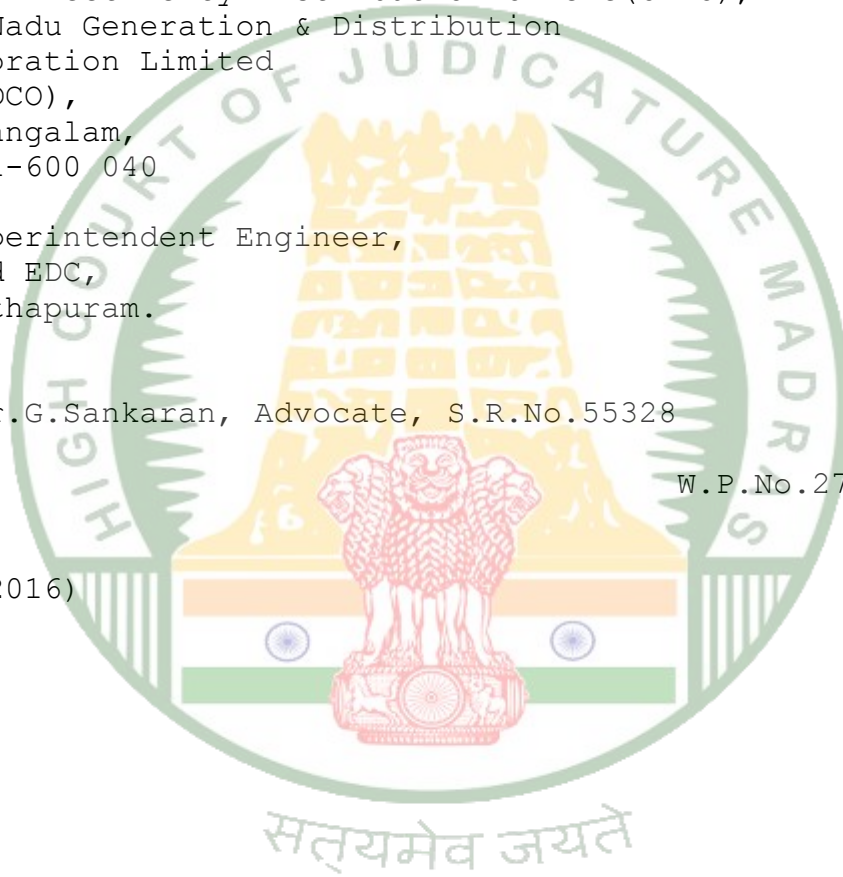
To

1. The Chairman,
Tamil Nadu Generation & Distribution
Corporation Limited
(TANGEDCO),
No.144, Anna Salai,
Chennai-600 002
2. The Superintendent Engineer,
Chennai Electricity Distribution Circle(CEDC),
Tamil Nadu Generation & Distribution
Corporation Limited
(TANGEDCO),
Thirumangalam,
Chennai-600 040
3. The Superintendent Engineer,
Ramanad EDC,
Ramanathapuram.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.55328

W.P.No.27734 of 2016

TRM(CO)
CA(17/10/2016)



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