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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 05.10.2016

Pronounced on : 01.12.2016

CORAM :

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.(MD)No.17270 of 2016
& W.M.P.(MD) Nos.12542 & 12543 of 2016

Sivan

... Petitioner

vs.

The Assistant Electricity Engineer,
Operation & Maintenance,
Tamil Nadu Electricity Board (TANGEDCO),
SIPCOT, Pudukottai,
Pudukottai District

... Respondent

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records and quash the impugned notice passed by the respondent dated 09.08.2016 in respect of E.B.Service connection No.118-005-526, Pallathivayal-A at SIPCOT, Pudukottai, Pudukottai District, provided on the name of the mother of the petitioner on the ground that the same is arbitrary, illegal and without jurisdiction and consequently, to direct the respondent to consider the explanation of the petitioner, dated 16.08.2016.

For Petitioner : Mr. M.Ramu

For Respondent : Mr. S.Srinath

O R D E R

This Writ of Certiorarified Mandamus has been filed seeking to quash the impugned notice of the respondent dated 09.08.2016 (in respect of E.B.Service connection No.118-005-526, Pallathivayal-A at SIPCOT, Pudukottai, Pudukottai District, provided in the name of the mother of the petitioner), under which, the petitioner has been directed to pay arrears of Rs.7,250/- for the period from October 2015 to June 2016 and to direct the respondent to consider the explanation of the petitioner, dated 16.08.2016.

2. The electricity service connection stands in the name of the petitioner's mother, Muthukannu. The respondent herein, by the proceedings dated 09.08.2016 directed the petitioner's mother to pay a sum of Rs.7,254/- on or before 08.09.2016, (in respect of



electricity service connection No.118-005-526, Pallathivayal-A, Tariff IA, at SIPCOT, Pudukottai, Pudukottai District). This additional demand has been made on the ground that there was a fault in the electricity meter during the period from October 2015 to June 2016. It is claimed by the petitioner that the consumption of electricity is only during nights and the petitioner is regular in paying the electricity charges, which are being, noted down by the meter checkers regularly. The person in-charge of checking the meter never informed the petitioner that the meter is at fault.

3. Except in the month of July 2016, where there was a small function, there was no other function.

3.1. The respondent has calculated the arrears by taking the average amount at Rs.2,328/- and multiplying it, by five times, which is equivalent to Rs.11,640/-. The petitioner had paid Rs.4,386/-. Deducting this amount, the balance claimed is Rs.7,250/-.

4. The learned counsel appearing for the petitioner submitted that, in respect of the impugned notice, the petitioner has submitted an explanation on 16.08.2016. But the explanation has not been considered. Hence, it is claimed that the impugned notice dated 09.08.2016 is liable to be quashed.

5. From a perusal of the impugned proceedings dated 09.08.2016, it is clear that the demand for a sum of Rs.7,254/- has been made based on the report submitted by the Inspection Committee. The amount paid for the periods from October 2015, December 2015, February 2016, April 2016 and June 2016 has been totalled at Rs.4,386/-, which is the amount already paid by the petitioner. The balance is claimed, as arrears, to be payable, on the ground that there had been fault in the meter. The order did not indicate that, when the fault in the meter was noticed, what was the fault in the meter, when it was rectified, how there was a mistake in the earlier assessment, etc., Therefore, it is only the explanation of the petitioner which should have been considered and the impugned order should have been revised.

6. In fact, the respondent should have issued show cause notice to the petitioner with respect to the revised assessment, especially when the petitioner had been paying the electricity charges regularly, without any break. In any event, the respondent ought to have revised the demand, atleast after considering the explanation given by the petitioner.

7. Under such circumstances, the impugned notice, dated 09.08.2016 is set-aside. The matter is remitted back to the respondent, with a direction to pass revised orders, after



considering the explanation submitted by the petitioner herein, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The writ petition stands allowed. No costs. Consequently, the connected WMPs are closed.

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/True copy/

Sd/-

Assistant Registrar (RTI)

Sub Assistant Registrar

To
The Assistant Electricity Engineer,
Operation & Maintenance,
Tamil Nadu Electricity Board (TANGEDCO),
SIPCOT, Pudukottai, Pudukottai District.

+1 CC to Mr.M.RAMU, Advocate, SR No.75034

Pre-Delivery Order in
W.P.(MD)No.17270 of 2016
& W.M.P.(MD) Nos.12542 & 12543 of 2016

srk
SH:16.12.2016:3P/3C