



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.05.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P. (MD) No.9047 of 2016
and
W.M.P. (MD) .No.7200 of 2016

A.Peter Vincent

...Petitioner

vs.

- 1.The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Parvathipuram, Vettoornimadam Post,
Kanyakumari District
- 2.The Executive Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Kanyakumari Electricity Distribution Circle,
Moolachel, Thuckalay,
Kanyakumari District.
- 3.The Assistant Executive Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Thalakulam Road, Thingal Nagar,
Kanyakumari District.
- 4.The Assistant Accounts Officer,
Thuckalay Revenue Records
Office of the Executive Engineer,
Kanyakumari Electricity Distribution Circle
Moolachel, Thuckalay,
Kanyakumari District.
- 5.The Junior Engineer,
Distribution
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Colachel-II,
Kanyakumari District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorati, to call for the records relates to the letter No.E/Me/Po/Vini/Kula.II/Ko.Katu/A.No.952/16, dated 26.03.2016, on the file of the fifth respondent and quash the same.

For Petitioner : Mr.J.John Jayakumar
For Respondents : Mr.A.U.Ramanathan
Standing Counsel

O R D E R

Heard Mr.J.John Jayakumar, learned counsel for the petitioner and Mr.A.U.Ramanathan, learned standing counsel appearing for the respondents.

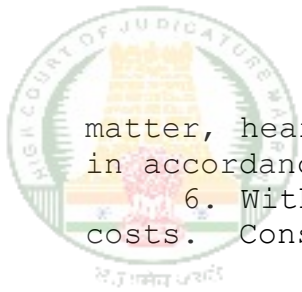
2. The petitioner is before this Court for the second time for the same cause of action. Earlier, the petitioner filed a writ petition in W.P.(MD) No.11847 of 2014, challenging the proceedings, dated 10.07.2014, by which the petitioner was directed to pay a sum of Rs.11,57,039/-. The petitioner challenged the said order on several grounds and primarily contending that the order is in violation of principles of natural justice.

3. The learned standing counsel for the respondent Board submitted that the short levy particulars have been furnished pursuant to the audit conducted and all details have been given to the petitioner after which only the order was passed. After hearing both sides, the writ petition was disposed of by an order, dated 22.07.2014, by passing the following order:

"7.Be that as it may, the petitioner submitted his explanation on 21.04.2014. In the impugned proceedings, dated 10.07.2014, except for referring to the petitioner explanation dated 21.04.2014, in the reference column in Serial No.1, there is absolutely no discussion as to how the petitioner's explanation is not acceptable. Therefore, the impugned order is an outcome of total non-application of mind. Accordingly, the impugned order is set aside and the matter is remitted to the fifth respondent for fresh consideration. The petitioner shall appear before the fifth respondent for enquiry and place all records and after affording opportunity of personal hearing to the petitioner, the fifth respondent shall pass orders on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order."

4. In terms of the above direction, the petitioner was entitled to appear before the fifth respondent for an enquiry, place all records and also entitled to opportunity of personal hearing. Thereafter, orders were directed to be passed.

5. Though this order was passed on 22.07.2014, the fifth respondent did not take any action for more than two years. All of a sudden, the impugned proceedings have been issued claiming the same amount that too directed the petitioner to remit the same amount. However, this order has been passed without conducting proper enquiry and without considering the petitioner's objection, except for referring to the order passed in the writ petition. Therefore, on that ground the impugned order has to be held be in violation of principles of natural justice. However, on this reason, this Court is not inclined to set aside the impugned order as it may delay the matter further and there will be a direction to the petitioner to treat the impugned proceedings as a show-cause notice and submit his objection within a period of fifteen from the date of receipt of a copy of this order and the fifth respondent shall enquire into the



matter, hear the petitioner in person and pass fresh orders on merits and in accordance with law, within a period of ten days thereafter.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)/

Vacation Officer

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

- 1.The Superintending Engineer,
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+1cc to M/s.J.John Jayakumar, Advocate in SR.25860

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