

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.07.2017
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 10003 of 2017
and W.M.P.No. 11010 of 2017

M.Chinnaponnu

... Petitioner

Vs

1. The State of Tamilnadu
Rep by its Principal Secretary to
Government Energy Department,
Fort St. George,
Chennai - 600 009
2. The Chairman,
Tamil Nadu Electricity Board/TANGEDCO,
No.800, Anna Salai, Chennai - 600 002.
3. The Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam - 1.
4. The Chief Internal Officer/Audit Branch,
No.807, Chengalvarayan Buildings,
7th Floor, Anna Salai, Chennai - 600 002. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the order passed by the 3rd respondent dated 22.09.2016 in Memo.No.014148/415/Adm.1/A.1/F.Pay fixation/2016 and consequential order in Ku/AA.No.43 /SE/MEDC /Nee.P.3(1)/Ko.Audit /2016 dated 24.09.2016 and in Ku/AA. No.43/SE/ MEDC /Nee. P.3(1)/ Ko.Audit/2016 dated 10.11.2016 and to quash the same and to direct the respondents to grant selection grade in the lower post viz., Assistant (Accounts) to the petitioner from the date of his eligibility i.e. From 01.07.2014 till 31.08.2016 and consequently to refix her pay as already fixed and repay the amount recovered so far from the petitioner.

For Petitioner : Mr.R.Syed Mustafa

For Respondents : Mr.C.C.Rangarajan (For R1)
Government Advocate
Mr.P.R.Dhilip Kumar (For R2 to R4)

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O R D E R

The relief sought for in this writ petition is to quash the order passed by the 3rd respondent dated 22nd September 2016 regarding the re-fixation of pay and the consequential orders of recovery. The petitioner initially joined as Office Helper and thereafter, promoted to the post of Junior Assistant and posted at Mettur. Subsequently, by virtue of her seniority, she was promoted to the post of Assistant (Accounts) and to the post of Accounts Supervisor, HD Section at Mettur Distribution Circle.

2. Pursuant to the orders passed by the Government, the pay of the writ petitioner was re-fixed.

3. The learned counsel appearing for the writ petitioner contended that suddenly the petitioner received a letter stating that she is not eligible for fixation of pay and her movement to selection grade in the post of Assistant (Accounts) and consequently, the excess pay is to be recovered as per the Audit Slip. Though the writ petitioner has raised several grounds substantiating her entitlement for revision of pay, the respondents have not considered all these grounds nor an opportunity was provided to the writ petitioner to defend her case.

4. In the event of not providing proper opportunity required under the law, the impugned orders are to be scrapped.

5. The learned counsel in this regard submits that the order impugned regarding reduction of scale of pay and recovery was issued without providing opportunity to the writ petitioner and on that score alone the impugned orders are liable to be quashed. On perusal of the impugned orders, this Court is able to find that no opportunity required to be given to the writ petitioner was provided. Thus, the impugned orders are in violation of the Principles of natural justice.

6. In view of this factor, this Court at this point of time is not inclined to consider the grounds raised in the writ petition on merits for sustaining the re-fixation of pay. Contrarily, it is suffice to direct the respondents to provide opportunity to the writ petitioner to submit all the grounds raised in this writ petition, enabling the respondents to consider the same as per Rules and in accordance with Law. Thus, this Court is of the opinion that the orders impugned in this writ petition deserve to be set aside. Consequently, without forming any opinion on merits, the impugned orders passed in this writ petition are quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

7. However, it is left open to the respondents to reopen the file and issue proper show cause notice to the writ petitioner and on receipt of the objections / explanations, the decision may be taken and an order may be passed in accordance with law as early as possible.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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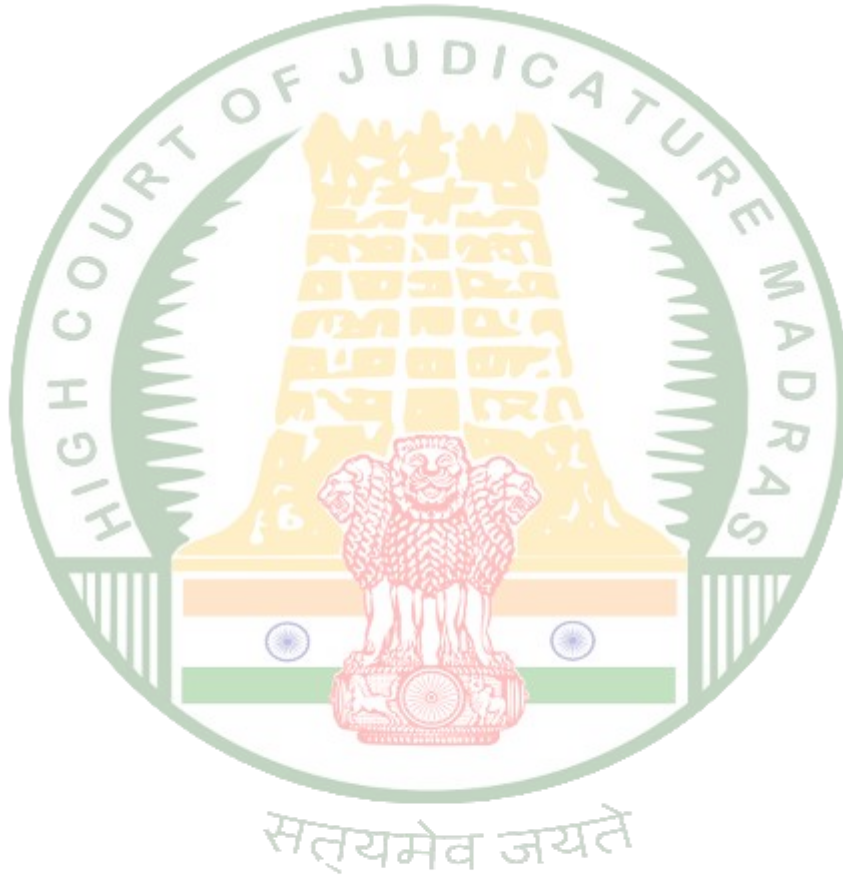
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+1 cc to Mr.R.Syed Mustafa Advocate sr 47953

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