

In the High Court of Judicature at Madras

Dated : 25.10.2017

Coram :

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P.No.13857 of 2014

and

M.P.No.1 of 2014

E.Ragu

... Petitioner

Vs

1. The Superintending Engineer,
Chengleput Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd., Chenglepet.

2. The Executive Engineer/O & M,
Tamil Nadu Generation and Distribution
Corporation Ltd., Maduranthagam,
Kanchipuram District.

... Respondents

Prayer: Petition under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, calling for the entire records connected with the impugned order of recovery passed the 2nd respondent vide Ku.Aa.No.Se.Po.EPa./Mathu/Nir.Ni.U.1/Ko.Ku,Uthiyam/A.No.482/2014, dated 18.3.2014 and quash the same.

For Petitioner : Mr.S.N.Ravichandran

For Respondents: Mrs.R.Varalakshmi

ORDER

The order of recovery dated 18.03.2014 issued by the second respondent is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was appointed as Helper Trainee by an order of the Superintending Engineer, Chengleput on 05.12.1996 on compassionate ground and accordingly the writ petitioner joined on 12.12.1996. The petitioner was promoted to the post of Wireman by an order dated 10.08.2001 and he was joined on 31.08.2001 in the Office of Assistant Engineer (O and M) North Sriperumpudur. On account of certain allegations against the writ petitioner and after conducting enquiry, an

order of punishment was issued imposing stoppage of increment for a period of one year without cumulative effect, in respect of the misconduct of unauthorized absence from 16.09.2002 to 06.10.2002. The petitioner claims that he was falsely implicated in a Criminal Case in Crime No.376 of 2003 also. May that it be, the claim of the writ petitioner is that the order of recovery was issued without issuing show cause notice or opportunity to the writ petitioner and the same is in violation of the principles of natural justice.

3. On a perusal of the order of recovery which is enclosed in page 19 of the typed set of papers filed along with this writ petition, it is also not clear in respect of the opportunity being provided to the writ petitioner. An order affecting the rights of the employees shall be issued only after providing reasonable opportunity to them. Even, in case of recovery, it is mandatory that a show cause notice has to be issued and an explanation/objection has to be received from the aggrieved persons. Thereafter, the officials are at liberty to take a decision by considering the merits and pass orders.

4. In this case, the learned counsel appearing for the respondent is also unable to clarify whether any notice was issued by the respondent before passing the orders or not. Under these circumstances, this Court is inclined to consider the grounds raised by the learned counsel appearing on behalf of the petitioner to the extent that an order of recovery was issued without providing any opportunity to the writ petitioner. Accordingly, the order of recovery issued by the second respondent in proceedings in Ku.Aa.No.Se.Po.EPa./Mathu/Nir.Ni.U.1/Ko.Ku,Uthiyam/A.No.482/2014, dated 18.3.2014 is quashed and the respondents are at liberty to provide opportunity to the writ petitioner by issuing show cause notice and if necessary, by providing an opportunity of personal hearing and thereafter, take a decision on merits and in accordance with law.

5. Accordingly, the writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vv

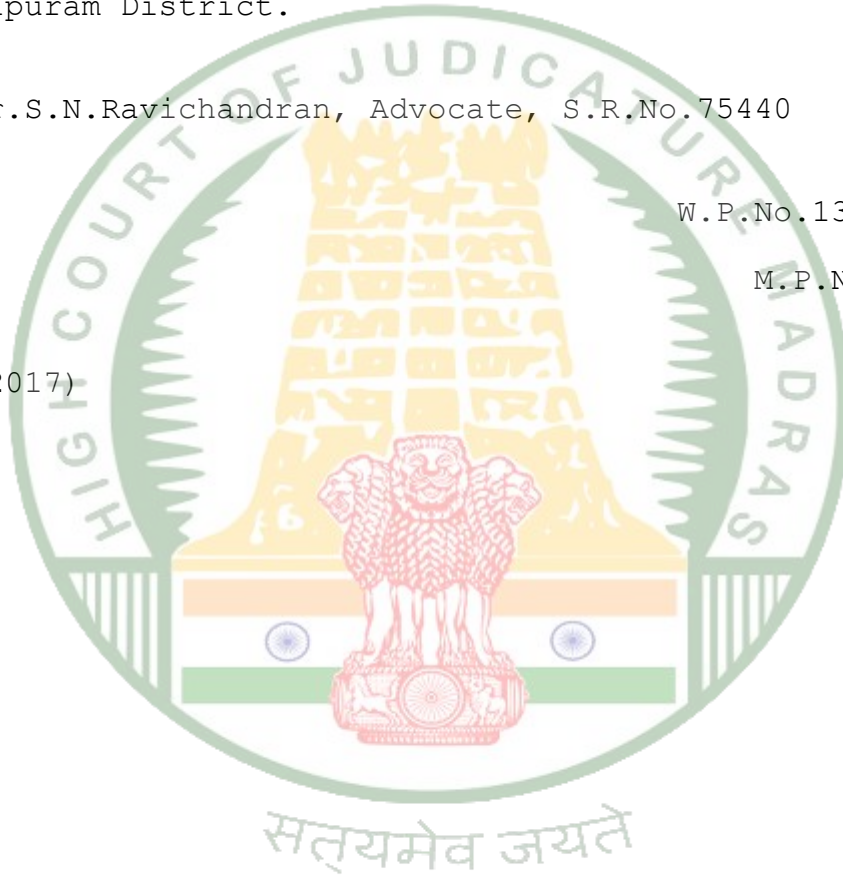
To

1. The Superintending Engineer,
Chengleput Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd., Chenglepet.
2. The Executive Engineer/O & M,
Tamil Nadu Generation and Distribution
Corporation Ltd., Maduranthagam,
Kanchipuram District.

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.75440

W.P.No.13857 of 2014
and
M.P.No.1 of 2014

VIII(CO)
GN(20/11/2017)



WEB COPY