

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 31.10.2017

Coram

The Honourable Mr.Justice V.PARTHIBAN

W.P. No. 20783 of 2008

M.Shaffi

.. Petitioner

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
Annasalai,
Chennai-600 002.

2. The Superintending Engineer,
Tamil Nadu Electricity Board (TEDC),
Thiruvannamalai-606 601.

3. The Executive Engineer,
Tamil Nadu Electricity Board,
Operation and Maintenance,
Vandavasi,
Thiruvannamalai District
Pin-604 408.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the production of the records relating to the proceedings dated 23.7.2008 made in Ku.AA No.Say PO/E and P/V.VA/Ni May/U.1/Ko Audit No.93/08 passed by the third respondent herein and quash the same.

For Petitioner : Mr. S.Senthilnathan

For Respondent : Ms.R.Varalakshmi,
for R2 & R3
Mr.S.Gunasekar, AGP for R1

ORDER

The present writ petition has been filed, seeking for the following relief:

"Issue Writ of Certiorarified Mandamus, to call for the records relating to the proceedings dated

23.7.2008 made in Ku.AA No.Say PO/E and P/V.VA/Ni May/U.1/Ko Audit No.93/08 passed by the third respondent herein and quash the same.

2. The petitioner joined the respondent Board on 7.8.1996 as Assessor and he was placed in the pay scale of Rs.4200-7840 and thereafter, he was appointed in supernumerary post from 12.11.2002 in the pay scale Rs.5600-10150. While he was working in supernumerary post, he was informed on 23.5.2007 that a sum of Rs.3036/- would be deducted from his salary in response to the audit objection on the ground that the said amount has been paid in excess than what was due to the petitioner. In the meanwhile, the petitioner was granted Special Grade on 23.6.2007 in the pay scale of Rs.5600-10150. His pay scale was revised and refixed at Rs.7000 + 60 with effect from 7.8.2006. While so, the third respondent issued impugned proceedings dated 23.7.2008 seeking to recover a sum of Rs.13,539/- stating that there was payment in excess while fixing the scale of pay of the petitioner in regard to special grade on the basis of audit objection. According to the petitioner, before issuing the recovery order, no prior notice has been issued to him, calling for his explanation and therefore, he was constrained to approach this Court assailing the said order.

3. Although the writ petitioner has raised several grounds in assailing the impugned order of recovery, the learned counsel appearing for the petitioner would confine his argument only with regard to non-issuing of prior notice by the third respondent before passing the impugned order of recovery dated 23.7.2008. He would submit that let the respondents give proper notice to the petitioner before any adverse order being passed against the petitioner.

4. Upon notice, Mr.S.Gunasekar, learned Addl.Government Pleader entered appearance for respondent No.1 and Ms.R.Varalakshmi, learned counsel entered appearance for respondents 2 and 3 and made their submissions.

5. Since the learned counsel has confined his relief only in respect of non-issuing of prior notice to the petitioner before the impugned proceedings passed against him, this Court is of the considered view that in the absence of prior notice, the impugned proceedings dated 23.7.2008 are liable to be vitiated for non-compliance of principles of natural justice.

6. In the said circumstances, the impugned proceedings in Ku.AA No.Say PO/E and P/V.VA/Ni May/U.1/Ko Audit No.93/08 are set aside and the matter is remitted to the third respondent, who shall issue fresh notice to the petitioner disclosing the basis on which, any recovery is to be ordered, call for

explanation from the petitioner by giving him a reasonable time and pass final orders on merits and in accordance with law. The said exercise shall be completed by the third respondent or by any competent authority by passing final orders, within a period of four weeks from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of on the above direction. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

suk

To

1. The Chairman,
Tamil Nadu Electricity Board,
Annasalai,
Chennai-600 002.

2. The Superintending Engineer,
Tamil Nadu Electricity Board (TEDC),
Thiruvannamalai-606 601.

3. The Executive Engineer,
Tamil Nadu Electricity Board,
Operation and Maintenance,
Vandavasi,
Thiruvannamalai District
Pin-604 408.

+1cc to Mr. S.Senthilnathan Advocate, S.R.No. 77587

W.P.NO.20783 OF 2008

KJI (CO)
TR(06/12/2017)

WEB COPY