

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.03.2017

Coram

The Hon'ble Mr. Justice S.M. Subramaniam

Writ Petition No.17334 of 2003
and
W.P.M.P.No.21692 of 2003

K.Kannaiyan

...Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
rep. by its Chief Engineer,
Administrative Branch,
800, Anna Salai, Chennai - 600 002.
 2. The Tamil Nadu Electricity Board,
Office of the Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam - 1.
 3. Tamil Nadu Electricity Board,
Office of the Assistant Accounts Officer,
Revenue Branch, Omalur.
- ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for records of the second respondent, dated 03.10.2002, made in Ku.No.Me.Po/Me.mi.pa.va./U.SE.PO./SI./ME./KO.VA.Ku/No.738/2002 as revised by the order, dated 01.02.2003, in Ku.Aa.No.Me.Po/Me.mi.pa.va./Me.u.se.pe.da./si/mu.ni.va/ Aa.No.87 of 2002, and to quash the same, and consequently, to direct the respondent herein to refund the sum of Rs.34,236/-.

For Petitioner : Mr.R.Gopinath
for Ms. G. Thilagavathy
For Respondents : Mr.P.R.Dhilipkumar
Standing Counsel

O R D E R

This Writ Petition is filed, challenging the order, dated 01.02.2003, passed by the second respondent, fixing the market

rent for the Board quarters accommodated by the petitioner, with effect from 01.05.1999 to 30.04.2000.

2. The case of the petitioner is that, he was in occupation of the Board Quarters allotted to him in LGM 32 at Mettur Dam. Though the petitioner was transferred from Mettur Dam to Omalur, he was allowed to continue in the Board Quarters as a special case, on payment of normal rate of rent. As the petitioner's daughter was a victim to the Coimbatore Bomb Blast, the petitioner was permitted to retain the quarters from 01.05.1998 to 31.10.1998, at a normal rent. Since the treatment for his daughter continued, the petitioner requested for retention of the quarters for a further period of six months and the same was permitted, on payment of normal rent. Again, at his request, extension was granted for the 3rd time, from 01.05.1999 to 30.04.2000 as special case, by the Chief Engineer Personnel, in his proceedings, dated 24.07.1999, but, on payment of market rent, in continuation of the permission already granted by the Board. On 30.09.2002, the petitioner retired voluntarily from service, and was permitted to retain the Board quarters till 30.12.2002. Whiles, the impugned order is passed on 01.02.2003, after the retirement of the petitioner, towards recovery for arrears of rent. It is the plea of the petitioner that the question of market rent cannot be made after the date of retirement, and hence sought to set aside the impugned order of recovery.

3. Relying upon the counter affidavit filed by the respondents, learned Standing Counsel for the respondents would submit that, in para No.5 of the counter affidavit, the concession shown by the Board is extracted, wherein, it is stated that, in spite of transfer, he was allowed to continue in the Board quarters as a special case, in view of the fact that his daughter was a victim of the Coimbatore bomb blast. Only from 01.05.1998 to 30.04.2000, being the third extension, market rate of rent was charged from the petitioner. By the order dated 24.07.1999, petitioner was permitted to retain the quarters for a further period from 01.05.1999 to 30.04.2000, on condition that the petitioner pays the market rent for occupying the quarters.

4. Therefore, the request of the petitioner cannot be considered at this point of time, because, he had admitted to pay the market rent, as per the order of the Chief Engineer, Personnel, dated 24.07.1999, and had continued in the quarters by accepting the condition imposed by the Board. Now, the petitioner cannot resile from his stand and say that market rent demanded by the Board is contrary to the promise given. The petitioner was allowed to continue in the quarters on payment of normal rent till 30.04.1999, and the Board had imposed market rent only for the period from 01.05.1999 to 30.04.2000.

Further, the condition was clearly intimated to the petitioner through the order of the Chief Engineer, vide proceedings, dated 24.07.1999. Such being the factual position, now, the petitioner cannot go back and say that he will not pay the market rent, as per the order of the Chief Engineer, as stated supra. The continuance of the Board quarters itself was a concession shown to the petitioner by the Board and such continuation is allowed, on payment of normal rent, only upto some point of time and the petitioner cannot expect to continue to pay normal rent all along.

5. Hence, the grounds raised by the petitioner is devoid of merits, and accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

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To

1. The Chief Engineer,
The Tamil Nadu Electricity Board,
Administrative Branch,
800, Anna Salai, Chennai - 600 002.
 2. The Tamil Nadu Electricity Board,
Office of the Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam - 1.
 3. Tamil Nadu Electricity Board,
Office of the Assistant Accounts Officer,
Revenue Branch, Omalur.
- +1 CC to Mr.P.R. Dhilipkumar, advocate sr 19112.

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MN(CO)
sp(30/08/2017)