



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMARW.P.(MD)No.13535 of 2018andW.M.P(MD)Nos.12336 and 12337 of 2018

V.P.Rajeshkannan

... Petitioner

-Vs-

1.The Chief Engineer (Personnel)

TANGEDCO,
8th Floor, NPKRR Maligai,
144 Anna Salai,
Chennai-600 002.

2.The Chief Engineer (Distribution)

TANGEDCO
Madurai Region,
K.Pudur,
Madurai-625 007.

3.The Superintending Engineer,

TANGEDCO
Madurai Electricity Distribution Circle,
K.Pudur,
Madurai-625 007.

4.The Deputy Chief Internal Audit Officer,

TANGEDCO,
Madurai Region,
K.Pudur,
Madurai-625 007

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ref.Ref.Ku.No.4623/424/ThaPo/pa/mathu/Ni.Pi./A pirivu/A2/2018, dated 19.05.2018 on the file of the second respondent and quash the same as illegal and consequently, direct the second respondent to drop further proceedings on the same against the petitioner, within the time stipulated by this Court.

For Petitioner

: Mr.M.Mahaboob Fazil

For Respondents

: Mr.S.Dhayalan

**ORDER**

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ref.No.4623/424/ThaPo/pa/mathu/Ni.Pi./A pirivu/A2/2018, dated 19.05.2018 on the file of the second respondent and quash the same as illegal and consequently, direct the second respondent to drop further proceedings on the same against the petitioner, within the time stipulated by this Court.

2.Heard Mr.M.Mahaboob Fazil, learned counsel appearing for the petitioner and Mr.S.Dhayalan, learned Standing Counsel appearing for the respondents.

3.The petitioner, on compassionate ground, was appointed, initially as Assessor. Subsequently, the petitioner has been promoted as Administrative Assistant in the year 2013, in that position, he has been working. Whiles, through the impugned communication / show cause notice, the second respondent seeking show cause from the petitioner stating that the petitioner suppressing the fact that he has already been working as Assessor and had obtained the post of Junior Assistant and thereby, by way of excess salary, he received a sum of Rs.4,14,087/- and the same was directed to be recovered from the petitioner as per the audit objection made in this regard, by proceeding dated 14.03.2017 and 15.03.2018. Therefore, in this regard, the petitioner was directed to give reply to the said show cause notice, which is impugned herein.

4.The learned counsel appearing for the petitioner would submit that pursuant to the impugned show cause notice, dated 19.05.2018, the petitioner has given his detailed reply on 05.06.2018. However, he apprehends that before considering the said reply, a decision may be taken by the respondents and the respondents may start with recovering the amount as indicated in the impugned communication and therefore, in order to protect the petitioner from such recovery, the petitioner is before this Court.

5.I have heard Mr.S.Dhayalan, learned Standing Counsel appearing for the respondents who would submit that no doubt, the impugned proceedings dated 19.05.2018, is only a show cause notice wherein audit objection raised was mentioned and a direction was also issued to recover the amount of Rs.4,14,087/-. Pursuant to the said show cause notice, the petitioner has also given reply on 05.06.2018. Certainly, after considering the said reply given by the petitioner, final decision would be taken by the respondents as to why disciplinary proceedings should not be initiated against the petitioner and ultimately, recovery is to be commenced only after taking such decision. Therefore, based on mere apprehension, the petitioner cannot seek any indulgence from this Court as the impugned communication is admittedly a show cause notice.



6.I have considered the submissions made by both sides.

7.As has been rightly pointed out by the learned Standing Counsel appearing for the respondents that the impugned proceedings dated 19.05.2018 is a show cause notice, wherein a reply has been called for from the petitioner within seven days. In fact, pursuant to the show cause notice, a detailed reply has also been given by the petitioner on 05.06.2018. The said reply is under consideration with the respondents.

8.It is for the respondents to take decision either to accept or reject the same by giving reasons, in case, the reply of the petitioner is accepted, then the proceedings will come to an end and if the reply is not accepted, the respondents shall proceed against the petitioner. Certainly, orders would be issued to that effect and in such circumstances, the proposal to recover the amount, allegedly was paid in excess to the petitioner would also be decided and communicated to the petitioner. Till such an order is passed by taking an appropriate decision by considering the reply of the petitioner, it cannot be construed that the respondents would automatically make recovery. Therefore, the apprehension now made by the petitioner through his counsel cannot be sustainable, at this juncture. In that view of the matter, this Court is inclined to pass the following order:-

"that the respondents, especially, the second respondent shall consider the reply given by the petitioner, dated 05.06.2018 and decide the issue by passing an order to that effect, within a period of six weeks from the date of receipt of a copy of this order. Till such final decision is taken and an order to that effect is communicated to the petitioner, no recovery shall be made against the petitioner. "

9.With this observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar

1.The Chief Engineer (Personnel)
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+1CC to Mr.T.Lajapathy Roy Advocate in SR.No.69919.

RMI

DS/SV/SAR-1 :18.07.2018: 4P/6C

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and

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