

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23029 of 2008

The Superintending Engineer,
and the Chairman,
Consumer Grievance Redressal Forum,
Thanjavur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Thanjavur. Petitioner

Vs.

1.Tamil Nadu Electricity Ombudsman
No.17, Third Main Road,
Seethammal Colony, Alwarpet,
Chennai - 600 018.

2.Thiru S.Ramasamy Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the first respondent in O.P.No.17 of 2007 dated 04.12.2007 in so far as it allows the refund of monthly minimum charges for the period from 27.03.2006 to 07.07.2006 to the extent of demand backed out and directing the Board to re-work the monthly minimum charges for the said period on the reduced demand and quash the same as illegal and arbitrary.

For Petitioner : Mr.P.Gunaraj

For Respondent : Mrs.N.Kannaki for R1
SECG
Mr.J.Madanagopal Rao for R2

O R D E R

The petitioner has filed this petition seeking issuance of Writ of Certiorari calling for the records on the file of the first respondent in O.P.No.17 of 2007 dated 04.12.2007 in so far as it allows the refund of monthly minimum charges for the

period from 27.03.2006 to 07.07.2006 to the extent of demand backed out and to direct the Board to re-work the monthly minimum charges for the said period on the reduced demand and to quash the same as illegal and arbitrary.

2.The case of the petitioner is that the second respondent had submitted an application on 16.12.2004 for 400 KVA Electricity supply and an agreement was entered with the second respondent on 30.03.2005 for effective supply to the respondent. The Tamil Nadu Electricity Board by 'supply availability notice' dated 10.10.2005 informed the second respondent that the Board has extended supply to their premises with required metering arrangements and that he shall avail the supply immediately or within three months from the date of notice.

3.It is the further case of the petitioner that as per Regulation 31(5) of the Tamil Nadu Electricity Distribution Code, if the intending consumer avail supply during the notice period of availability of supply, he shall pay the monthly minimum charges at the notified tariff rate for the period from the date of issue of first notice of supply availability till the date of availing supply. The second respondent failed to avail supply within the stipulated period as per the Tamil Nadu Electricity Distribution Code and the service connection was effected on 27.03.2006. After availing the supply, the second respondent by letter dated 12.05.2006 requested the Electricity Board for reduction of load from 400 KVA to 76 KVA and his request for reduction of load was effected on 07.07.2006.

4.It is the further case of the petitioner that the second respondent's request for reduction of load was not considered immediately since there was due from the second respondent to the tune of Rs.4,35,970/- and on payment of the dues, his request was considered. Hence, there was no delay on the part of the Electricity Board in effecting reduction of load as alleged by the second respondent. However, the Ombudsman failed to consider this aspect and directed the Electricity Board to refund the monthly minimum charges from 27.03.2006 to 07.07.2006. Aggrieved by the same, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner would fairly submit that the petitioner is entitled to collect monthly minimum charges from the date of issue of first notice of supply availability till the date of availing supply. However, there is no express provision available for collecting monthly minimum

charges during the pendency of the petition for reduction of KVA. The second respondent vide letter dated 12.05.2006 requested the Electricity Board for reduction of load from 400 KVA to 76 KVA and his request for reduction of load was effected on 07.07.2006. Hence, already the supply of 400 KVA was effected and the petitioner is entitled to collect the monthly minimum charges.

6. Per contra, the learned counsel appearing for the second respondent would submit that in the absence of any express provision, the petitioner is not entitled to collect the monthly minimum charges. Hence, the order passed by the Ombudsman need not be interfered with.

7. Heard both sides.

8. The second respondent made application on 16.12.2004 for 400 KVA Electricity supply and an agreement was entered into between the Electricity Board and the second respondent on 30.03.2005 for effective supply to the second respondent and vide 'supply availability notice' dated 10.10.2005, the Electricity Board informed the second respondent that the Board has extended supply to their premises with required metering arrangements and that he shall avail the supply immediately or within three months from the date of notice. The second respondent failed to avail supply within the stipulated period as per the Tamil Nadu Electricity Distribution Code and the service connection was effected on 27.03.2006. After availing the supply, the second respondent by letter dated 12.05.2006 requested the Electricity Board for reduction of load from 400 KVA to 76 KVA and his request for reduction of load was effected on 07.07.2006.

9. As per Regulation 31 (5) of the Tamil Nadu Electricity Distribution Code, if the intending consumer avail supply during the notice period of availability of supply, he shall pay the monthly minimum charges at the notified tariff rate for the period from the date of issue of first notice of supply availability till the date of availing supply. Admittedly, there is no express provision available for collecting monthly minimum charges during the pendency of the petition for reduction of KVA. Hence, the order passed by the Ombudsman cannot be faulted with.

10.The writ petition is accordingly dismissed. The petitioner is directed to comply with the impugned order dated 04.12.2007 in O.P.No.17 of 2007 passed by the first respondent, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

Tamil Nadu Electricity Ombudsman
No.17, Third Main Road,
Seethammal Colony, Alwarpet,
Chennai - 600 018.

+1cc to Mr.P.Gunaraj, Advocate 49347

+1cc to Mr.J.Madanagopal Rao, Advocate Sr.48995

W.P.No.23029 of 2008

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srg 11/07/2019

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