

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21706 of 2004

Tamil Nadu Electricity Board Engineers Sangam,
Rep. by its General Secretary,
793, Anna Salai, Chennai 2.

... Petitioner

Vs.

1. The Tamil Nadu Electricity Board
represented by its Secretary,
800, Anna Salai, Chennai 2.
2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 2.
3. The Member (Accounts),
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 2.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from effecting any recoveries from the salaries of the employees in section offices / substations in respect of the expenditure on official telephones purportedly in excess of the ceiling limits prescribed.

For Petitioner : Mr.Sundar Narayan
For Respondents : Mr.P.R.Dhilip Kumar,
Standing Counsel

WEB COPY
O R D E R

The present Writ Petition has been filed by the Engineers Union of the Tamil Nadu Electricity Board on behalf of its members, seeking issuance of Writ of Mandamus forbearing the respondents from effecting recovery from the salaries of the employees in section offices in connection with the excess expenditure incurred for usage of official telephones over and above the ceiling limit.

2. It is the case of the respondents that the ceiling limit for usage of official telephone has been fixed differently for various categories of the officers through Board proceedings in B.P. (Ch) No.121 (SB) dated 24.05.1997. In view of the audit objections raised at later stage, the respondents were constrained to seek for recovery of the excess usage of official telephones over and above the ceiling limit from the members of the petitioner Sangam.

3. It is the submission of the learned Standing Counsel for the respondents that in view of the audit objections as well as the ceiling limit imposed on the employees of the Board for usage of the official telephones, any excess usage is recoverable from the concerned employee.

4. The learned counsel for the petitioner on the other hand, would submit that the present Writ Petition deserves to be allowed on the sole ground that if at all the respondents intend to seek for recovery, the same cannot be done at such a belated period.

5. The Hon'ble Apex Court in the decision reported in 2015 (4) SCC 334 (State of Punjab and others vs. Rafiq Masih (White Washer) and others) had observed that recovery from the employees, when the excess payment has been made for a period in excess of 5 years, before the order of recovery is issued, is impermissible in law. In the instant case, the recovery which is now sought to be made is said to be in excess of 5 years and as such, the power of the respondent authority to initiate such recovery proceedings itself is under question.

6. Nevertheless, it would be appropriate to observe here that it is impermissible to make recovery where the excess payment has been made for a period in excess of 5 years, before the order of recovery is issued and in case where the period is within 5 years from the date of recovery, the respondent authority shall proceed further only after giving sufficient prior notice to the concerned individual employee seeking for his explanation for the recovery sought for.

7. With the above observations, the Writ Petition stands closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

pvs

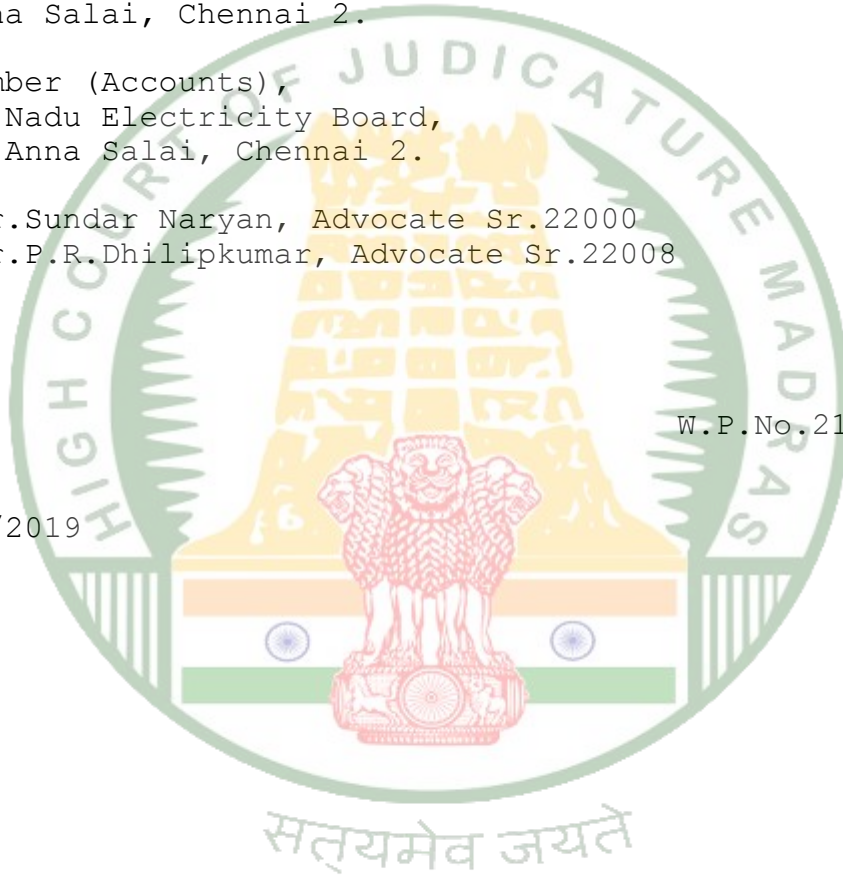
To

1. The Secretary,
Tamil Nadu Electricity Board
800, Anna Salai, Chennai 2.
2. The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 2.
3. The Member (Accounts),
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 2.

+1cc to Mr.Sundar Naryan, Advocate Sr.22000
+1cc to Mr.P.R.Dhilipkumar, Advocate Sr.22008

W.P.No.21706 of 2004

srg 10/04/2019



WEB COPY