

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 29344 of 2004

and

M.P.Nos. 35630 & 35631 of 2004

K.A.Jabbar

..Petitioner

vs

The Assistant Engineer
Tamilnadu Electricity Board
Operation & Maintenance/Tondiarpet
Chennai 600 081.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorarified Mandamus, to call for the records pertaining to entry 'Audit short fall' dated Nil in the Electricity Consumption Charges Card in A/c No. 11.08.188 (D.Chandrasekaran) on the files of the respondent herein, quash the same and to direct the respondent to continue to charge and receive the electricity consumption charges in Tariff III-A (Low Tension) as per the Tamil Nadu Revision of Tariff on supply of Electrical Energy Act 1978.

For Petitioner : Mr.Selvakumar

For Respondent : Mr.P.R.Dhilipkumar

ORDER

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to entry 'Audit short fall' dated Nil in the Electricity Consumption Charges Card in A/c No. 11.08.188 (D.Chandrasekaran) on the files of the respondent herein, quash the same and to direct the respondent to continue to charge and receive the electricity consumption charges in Tariff III-A (Low Tension) as per the Tamil Nadu Revision of Tariff on supply of Electrical Energy Act 1978.

2. The petitioner is running a Tailor Shop, by name New Rand Tailors, at No.32, Kummahamman Koil Street, Chennai 600 081. The said shop was attached to a residential property, owned by Mr.D.Chandrasekaran and leased out for more than 10 years. At the time of lease agreement, the petitioner has paid the electricity consumption charges, as per the separate White Card, in Connection No.11.08.188, by paying the charges directly to the respondent.

3. The learned counsel appearing for the petitioner would submit that originally the tariff meant for Tailoring is that of Commercial one. By an order dated 23.08.1995, tailoring has been brought into the purview of Cottage & Tiny Industry and hence the tariff was altered into that of

III-A (Low Tension). Right from the said date and thereafter, the Electricity authorities are collecting the charges only by following Tariff III-A (Low Tension). Suddenly, on 07.10.2004, the respondent made an entry in the White Card, 'Audit Shortfall' Rs.41,870/- and asked the petitioner to pay the same, without even issuing any Show Cause Notice. The respondent asked the petitioner to pay the said amount on or before 14.10.2004, failing which the petitioner's service connection would be terminated. Challenging the same, the present writ petition is filed.

4. The learned counsel appearing for the petitioner would further submit that the petitioner was running a Tailor shop and was paying the electricity charges without any violation. However, the respondent has asked the petitioner to pay a sum of Rs.41,870/- as 'Audit Shortfall', even without giving a notice and also without informing the petitioner as to why the consumer has to pay the amount. Therefore, he would pray that the respondent may be directed to charge for the units consumed by the petitioner and receive the electricity charges as before.

5. The learned counsel appearing for the Electricity Board would submit that the matter may be remanded back to the Authorities concerned, for fresh consideration and disposal.

6. In view of the above submissions, it is clear that the respondent did not follow the rules in force and that the said impugned demand was made without following the procedures contemplated under law. Accordingly, this Court is inclined to remand the matter back to the concerned Authorities for fresh consideration and disposal. After affording sufficient opportunities to the petitioner, the respondent is directed to dispose the matter within a period of 12 weeks from the date of receipt of a copy of this order.

7. Accordingly, the present writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18.07.2019

Index:Yes / No
Internet: Yes / No
Speaking / Non-Speaking order
kmm

To

The Assistant Engineer
Tamilnadu Electricity Board
Operation & Maintenance/Tondiarpet
Chennai 600 081.

M.DHANDAPANI, J.

kmm



W.P.No. 29344 of 2004

WEB COPY

18.07.2019