

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.02.2019

C O R A M

The Honourable Mr.JUSTICE M.S.RAMESH
W.P.No.30521 of 2004
& WVMP.No.1679 of 2005
W.P.M.P.No.36996 of 2004

Mrs.K.Vasanthamani

... Petitioner

Vs.

Tamilnadu Electricity Board,
rep. by its Assistant Engineer,
Operations and Maintenance
Erode Electricity Distribution Circle,
Lakkapuram,
Erode-2.

... Respondent

Petition filed under Article 226 of Constitution of India for the issuance of a Writ of Certiorari calling for the records relating to the proceedings of the respondent in Ka.no.u.mi.p.o./E & PA/Lak/F Audit /D 202 A/2004 dated 13.05.2004 and the consequential orders Ka.No.u.p.o/E & PA/Lak/Ka.thanikkai/455/2004 dated 29.09.2004 and quash the same as illegal and arbitrary for being against the principle of natural justice.

For Petitioner : Mr.A.Kumara Guru

For Respondents : Mr.S.K.Raameshwar

O R D E R

A short ground on which the petitioner is entitled to succeed in the present writ petition is that the impugned demand has been made without prior show cause notice.

2. A perusal of the order impugned in the present writ petition, shows that a sum of Rs.51, 057/- has been made only based on the inspection report and as such, the order impugned is clearly in violation of the principles of natural justice.

3. The learned counsel for the respondents has produced a working sheet, which evidences that the petitioner's consumption of electricity for a billing period viz., 22.04.2002

to 10.03.2003 is for 18440 units. The petitioner was suddenly issued with a notice dated 13.05.2004, demanding charges calculated under the average system of metering for a differential Tariff amount calculated to a total sum of Rs.51, 057/-.

4. As rightly pointed out by the learned counsel for the petitioner, the present impugned demand has been made without any prior notice to the petitioner, calling for explanation. When the respondents have chosen to alter the Tariff from Tariff IIIA2 to Tariff IIIB and consequently, had chosen to demand a sum of Rs.51, 057/-, it would have been appropriate that the petitioner be given a prior notice, calling for explanation. The order impugned does not refer to any prior notice having been given, and that the demand has been made based on the inspection report alone. Such order passed is entirely in violation of the principles of natural justice. On this short ground, the petitioner is entitled to succeed.

5. In the light of the foregoing discussions, the order dated vide in No.Ka.no.u.mi.p.o./E & PA/Lak/F Audit /D 202 A/2004 dated 13.05.2004 and the consequential orders vide in Ka.No.u.p.o/E & PA/Lak/Ka.thanikkai/455/2004 dated 29.09.2004 respectively are set aside and accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

6. In case, if the respondents so desire to proceed against the petitioner for recovering the alleged consumption charges, it is open to them to issue an appropriate show cause notice calling for explanation and take a decision after giving a due opportunity to the petitioner by considering his reply to such a show cause notice.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

Tamilnadu Electricity Board,
rep. by its Assistant Engineer,
Operations and Maintenance
Erode Electricity Distribution Circle,
Lakkapuram,
Erode-2.

+lcc to Mr.A.Kumaraguru, Advocate sr.16251

W.P.No.30521 of 2004

ssd[co]
srg 27/03/2019