

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 18.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.27579 of 2019  
W.M.P.Nos.27065 & 27068 of 2019

J.Manonmani

...Petitioner

Versus

- 1.The Chief Engineer,  
North Chennai Thermal Power Station-I,  
Atthipattu Pudhu Nagar,  
Chennai-600 120.
- 2.The Superintending Engineer,  
Purchase & Administration  
North Chennai Thermal Power Station-I,  
Atthipattu Pudhu Nagar,  
Chennai-600 120.
- 3.The Superintending Engineer/Planning  
4<sup>th</sup> Floor, (Eastern Wing)  
No.144, Anna Salai,  
Chennai-600 002.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the second respondent's proceedings made in Lr.No.008/Admn.4/A.1/F.Additional Charge /2019 dated 15.07.2019 and consequential order of the third respondent in O.O.No.002704/472/SE/PLG/APO/U-II/Q20/Q201/2019-1 dated 25.07.2019 and quash the same and direct the respondents to refund the amount so far deducted/recovered from the petitioner's salary along with interest within the time frame by this Hon'ble Court.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.R.Dilipkumar  
Standing Counsel (TNEB)

## O R D E R

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has passed Diploma in Electronics and Communication Engineering and joined as helper in North Chennai Thermal Power Station on 01.05.1999. Subsequently, he was promoted as Technical Assistant in the year 2000 through internal selection. Thereafter, the petitioner acquired B.E.(EEE) degree from Anna University through part time in the year 2005 and thereafter got selected and appointed as A.E./Electrical/North Chennai Thermal Power Station-1 through internal selection on 21.03.2007. While so, the 1<sup>st</sup> respondent has directed the petitioner to look after the works of Assistant Executive Engineer/Electrical/MM/North Chennai Thermal Power Station with effect from 15.07.2013 as per regulation 49(3) of TNEB Service Regulation in addition to regular work till the regular incumbent assumes charge. The 1<sup>st</sup> respondent in his proceedings dated 26.12.2014 sanctioned allowance for additional charge allowances at the rate of 1/5<sup>th</sup> pay actually drawn per month and the petitioner was permitted receive this additional allowances for the period from 15.07.2013 F.N., to 30.11.2014 A.N., for 489 days excluding 12 days and E.L., for 3 days. While so, based on audit objection for the payment of additional remuneration for the in-charge post on the ground that there is no additional charge arrangement in the Central Office except Executive Engineer and above. Though the Chief Engineer in his U.Or.dated 01.12.2016 has also written to the Deputy Chief Internal Audit Officer that the additional remuneration for the in-charge post of Assistant Executive Engineer is permissible service and the said posts are independent as per the service regulation and requested to drop the audit objection. However, the same was not considered despite the request made by the petitioner on 24.08.2016. In the meantime, the petitioner was promoted as Assistant Executive Engineer and posted at Head Quarters on 02.03.2018. Now, the main grievance of the petitioner is that the 2<sup>nd</sup> respondent without considering the letter of the Chief Engineer dated 01.02.2016 and the petitioner's representation dated 24.08.2016, has issued a proceedings dated 15.07.2019 requesting the 3<sup>rd</sup> respondent to recover a sum of Rs.1,69,620/- as additional allowance paid to the petitioner on installment basis. Accordingly, the 3<sup>rd</sup> respondent by proceedings dated 25.07.2019 directed to

recover the said sum from his salary in 6 monthly installments. Accordingly, two installments have been recovered. Aggrieved by such recovery proceedings, the petitioner has made representation to the 2<sup>nd</sup> respondent. Since, the same was not considered, the petitioner has filed the present petition.

3.The learned counsel for the petitioner would submit that though the petitioner was paid additional allowance for 489 days, based on audit objection, the payment of additional remuneration has been ordered to be recovered in six monthly installments and two months installment has been recovered already, which is violation of service regulations. Therefore, he seeks to set aside the impugned order of the 2<sup>nd</sup> respondent dated 15.07.2019 and to direct the 2<sup>nd</sup> respondent to consider the petitioner's representation dated 29.07.2019 and pass appropriate orders.

4.The learned standing counsel appearing on behalf of the respondents acceded to the request made by the learned counsel for the petitioner.

5.Considering the above submissions and on perusal of the impugned order, it reveals that before impugned recovery, no opportunity was given to the petitioner and the same is clear violation of principles of natural justice. Hence, this Court is inclined to set aside the proceedings of the 2<sup>nd</sup> respondent passed in Lr.No.008/Admn.4/A.1/F.Additional Charge/2019 dated 15.07.2019 and consequential order of the 3<sup>rd</sup> respondent dated 25.07.2019 and remand back the matter to the concerned authority. The authority concerned is directed to consider the representations of the petitioner dated 24.08.2016 and 29.07.2019 afresh and pass orders on merit and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

6.Accordingly, this writ petition stands allowed. The impugned orders of the 2<sup>nd</sup> respondent dated 15.07.2019 and 3<sup>rd</sup> respondent dated 25.07.2019 is set aside and the matter is remanded back to the concerned authority. No costs. Connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rm  
To

1.The Chief Engineer,  
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Atthipattu Pudhu Nagar,  
Chennai-600 120.

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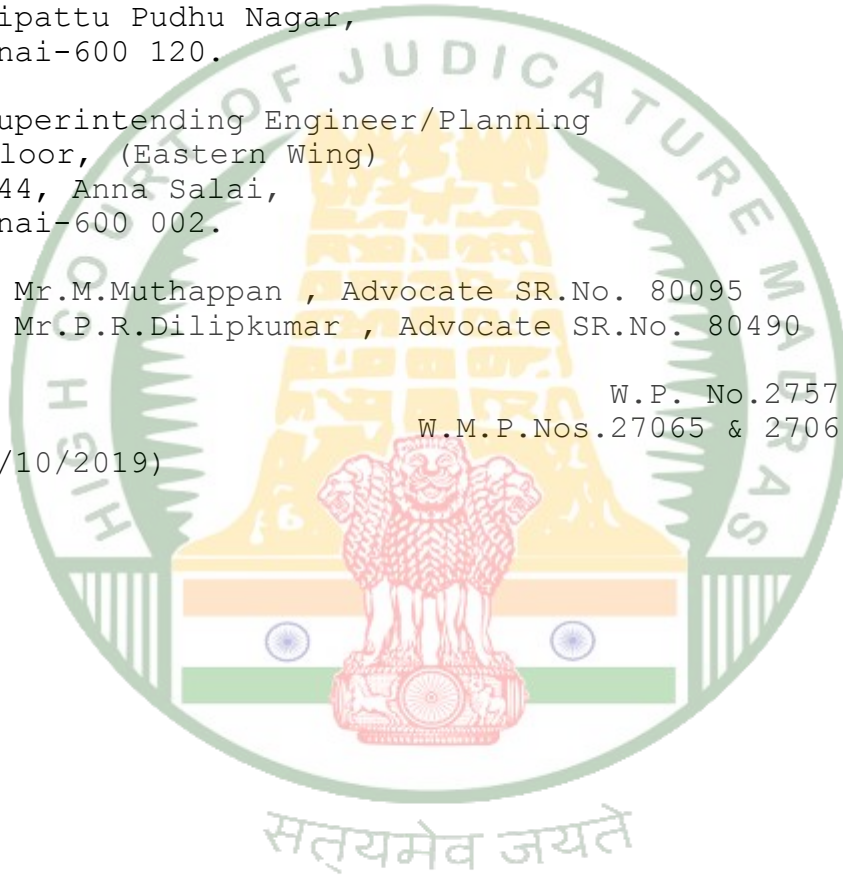
+1cc to Mr.M.Muthappan , Advocate SR.No. 80095

+1cc to Mr.P.R.Dilipkumar , Advocate SR.No. 80490

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A.SK(23/10/2019)



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