



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P (MD) No.17429 of 2020

and

W.M.P. (MD) .No.14573 of 2020

(Through Video Conferencing)

S.Dharmaraj

... Petitioner

Vs

1.The Superintending Engineer,
Tamil Nadu Electricity Distribution
and Generation (TANGEDCO),
Sivagangai Electricity Distribution Circle,/
Maruthpandiar Nagar, Sivagangai.

2.The Assistant Electricity Engineer (Distribution),
(TANGEDCO), Tamil Nadu Electricity
Generation and Distribution, Pudukkottai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorari to call for the records pursuant to the first respondent impugned order in க.எண்/மேபொ/சிமிபவ/துநிகஅ/உகஅ/கோ.தணிக்கை/அ.எண்.4/2020 நாள்.07.05.2020 and the second respondent impugned order in க.எண்.உமிபொ/இ&ப/புதுவயல் /கோ.த.ஆ/அ.எண்.217/2020 நாள்.19.10.2020 and quash the same.

For Petitioner : Mr.J.John

For Respondents : Mrs.M.Rajeswari
for Mr.S.M.S.Johny Basha
Standing Counsel

O R D E R

This writ petition has been filed challenging the order dated 07.05.2020 passed by the first respondent directing the petitioner to pay liquidated damages amounting to the tune of Rs.1,03,500/-.

2. Mrs.M.Rajeswari, learned counsel representing Mr.S.M.S.Johny Basha, learned Standing counsel accepts notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



3. Heard Mr.J.John, learned counsel for the petitioner and Mrs.M.Rajeswari, learned counsel representing Mr.S.M.S.Johny Basha, learned Standing counsel for the respondents.

4. It is the case of the petitioner that the impugned order passed by the first respondent is arbitrary and illegal. It is his case that no reasons has been assigned in the impugned order for levying a sum of Rs.1,03,500/- towards liquidated damages. According to the petitioner, he was a contractor for the Tamil Nadu Electricity Board, Manamadurai Division, Sivagangai District in the year 2007 and he has also completed the said contract in the said year. All of a sudden, without any reason, the impugned order has been passed, calling upon the petitioner to pay a sum of Rs.1,03,500/- towards liquidated damages. According to the petitioner, no opportunity was granted to him before passing the impugned order. In such circumstances, this Writ Petition has been filed.

5. As seen from the impugned order, except for claiming for a sum of Rs.1,03,500/- from the petitioner towards liquidated damages based on the audit report of the respondents, neither a copy of the audit report nor earlier communication sent to the petitioner regarding the said claim have been referred to in the impugned order. Admittedly, no personal hearing was afforded to the petitioner nor the petitioner was afforded an opportunity to submit his explanation to the alleged audit report. Therefore, it is made clear that the first respondent has passed the impugned order arbitrarily and has violated the principles of natural justice.

6. For the foregoing reasons, the impugned order dated 07.05.2020 passed by the first respondent is hereby quashed and the Writ Petition is allowed accordingly. However, liberty is granted to the respondents to initiate legal action against the petitioner for the recovery of the alleged liquidated damages by adhering to the principles of natural justice on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



tsg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

Order made in
W.P (MD) No.17429 of 2020
03.12.2020

MA (CO)
KM (14.12.2020) 3P 1C