

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.867 of 2021

and W.M.P.Nos.951 & 953 of 2021

V.K.Navaneethakrishnan

... Petitioner

-vs-

1. The Superintending Engineer,
TANGEDCO,
Tirupur Electricity Distribution Circle,
Tirupur-641 602.
2. The Executive Engineer / O&M,
TANGEDCO, Tirupur Electricity Distribution Circle,
Tirupur-641 602.
3. The Chief Engineer,
TANGEDCO, Tatabad,
Coimbatore-12. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent's memo No.21651/Adm.Br.2/A.2/D.No.3680/2019-5 dated 29.10.2020 (in Tamil) culminating in the order of the 2nd respondent in Memo No.EE/O&M/TPR/Adm.Br/A.2/Dkt. Pay fixation/D.No.4659/2020 dated 17.12.2020 (in Tamil) "reducing the Pay of the petitioner to the minimum of scale of pay of the post held on the date of imposing the punishment for the period of two years, which will operate for future increments" as illegal, arbitrary and contrary to law, against natural justice and consequently, direct the respondents to restore the pay to the same level drawn by the petitioner and grant increments as envisaged in standing orders.

For Petitioner : Mr.N.L.Rajah, Senior Counsel
For Mr.K.Narasimhan

For Respondents : Mr.Karthik Rajan

O R D E R

The petitioner has come forward with this writ petition, challenging the orders of the Respondents 1 & 2 dated 29.10.2020 and 17.12.2020 respectively, by which, the pay of the petitioner was reduced to the minimum of scale of pay of the post held on the date of imposing the punishment for the period of two years, which will operate for future increments. The petitioner also sought a direction to the respondents to restore the pay to the same level drawn by the petitioner and grant increments as envisaged in standing orders.

2. Mr.Karthik Rajan, learned counsel for the respondents takes notice for the respondents. By consent on either side, the Writ petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that on account of the alleged irregularity in billing, he was issued with a charge memo and after a detailed enquiry, he was imposed with a punishment of pay reduction. Aggrieved by the said imposition of punishment, he preferred an appeal before the 3rd respondent on 21.12.2020, which is well within time. It is the further case of the petitioner that before a decision is arrived at by the Appellate Authority, the 2nd respondent has, in a hasty manner, implemented the order of the 1st respondent, thereby his pay was reduced with effect from 01.12.2020 for a period of two years. Challenging the action of the respondents 1 and 2, the petitioner is before this Court.

4. Heard the learned Senior Counsel for the petitioner and the learned counsel for the Respondents on the above aspect.

5. It is seen that the petitioner has already filed an appeal before the 3rd respondent, who is the Appellate Authority to review the order of the respondents 1 and 2. When an appeal remedy is available to the petitioner and the petitioner has admittedly filed the appeal in time, the 2nd respondent ought not to have implemented the order and should have waited for the outcome of the appeal filed before the 3rd respondent. However, it is not known as to why the 2nd respondent gave effect to the order of the 1st respondent in a rapid manner without application of his mind and took steps to reduce the pay of the petitioner.

6. In view of the above, the Writ Petition is disposed of, with a direction to the respondents 1 and 2 not to give effect to the orders impugned herein till the order being passed by the 3rd respondent in the appeal and the 3rd respondent / Appellate Authority is directed to take a decision on the appeal filed by the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is further directed that no coercive steps shall be taken

against the petitioner till a decision is taken by the Appellate Authority, in the light of the judgment of this Court in the case of Pyramid Saimira Theatre Ltd., vs. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and Others [W.P. Nos. 1, 2 and 14591 of 2009] decided on 29.07.2009. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

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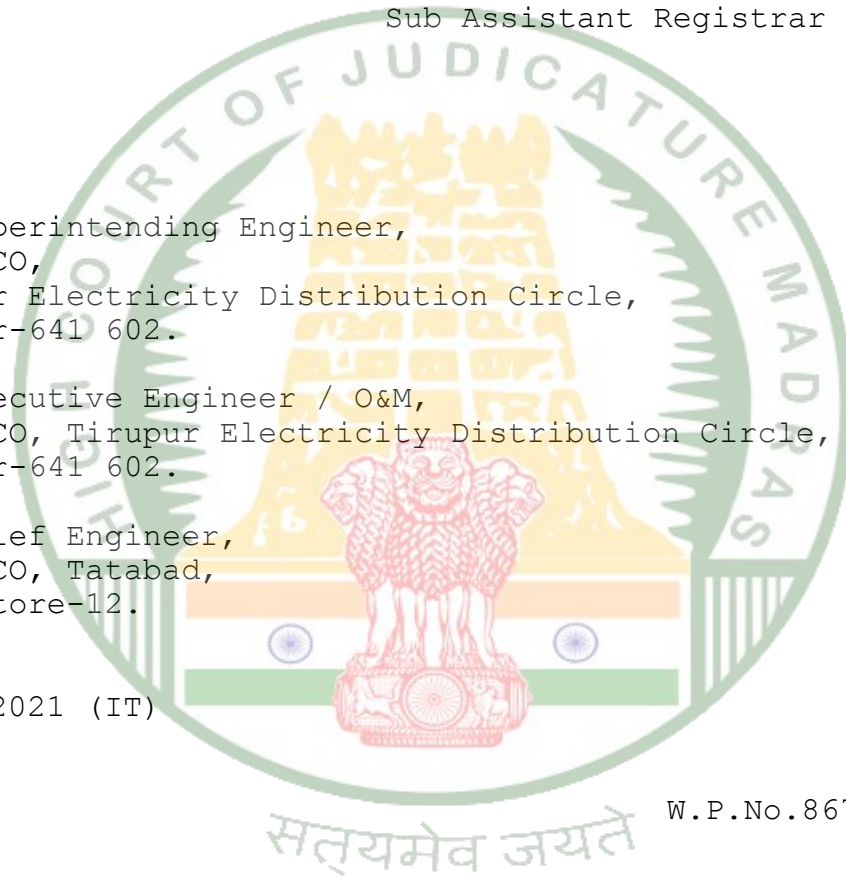
Sub Assistant Registrar

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To:

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BS(CO)
SM/03/03/2021 (IT)



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