

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.11294 OF 2021

EVP World

Rept. by its Proprietor

Mr.E.V.P.Santosha Reddy

... Petitioner

Vs

1. The Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO)
Rep. By its Chairman & Managing Director,
144, Anna Salai, Chennai-600002.
2. Tamil Nadu Generation & Distribution Corporation Limited (TANGEDCO),
Rep. By its Chief Financial Controller-Revenue,
NPKRR Maligai, 144, Anna Salai,
Chennai-600 002.
3. Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 009.
4. The Government of Tamil Nadu,
Rep. By its Secretary to Government,
Energy Department, Fort St.George,
Chennai-600 009.
5. The Superintending Engineer,
The Tamil Nadu Generation and Distribution Corporation Ltd.,
Chengalpattu.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent leading to issuance of the impugned High Tension Bills (Provisional) from the month of April to October, 2020 in Bill Nos.9094110872052001 dated 06.05.2020, 9094110872062001 dated 06.06.2020, 9094110872072001 dated 06.07.2020, 90941108722082003 dated 07.08.2020, 9094110872092001 dated

07.09.2020, 9094110872102001 dated 06.10.2020 and 9094110872112003 dated 07.11.2020, pertaining to Service Connection H.T.No.099094110872, issued in violation of scope of Regulation 6(b) of the Supply Code and to quash the same and consequently, direct the respondents either refund or adjust the amount already paid from the month of April to October, 2020 towards future bills.

For Petitioner : Mrs.J.Amritha Sarayoo

For Respondents : Mr.M.Varunkumar,
Standing Counsel for TNEB
for R1 to R3 and R5

Mr.A.Selvendran,
Government Advocate for R4

ORDER

The grievance of the petitioner is in relation to levy of Demand Charges by the TANGEDCO in violation of the order passed by the Tamil Nadu Electricity Regulatory Commission as also in violation of Regulation 6(b) of the Tamil Nadu Electricity Supply Code, 2004.

2. The issue involved in this writ petition was already raised in W.P.Nos.7678 of 2020 etc., batch, wherein the learned Judge, after considering the elaborate arguments made by the learned counsels for the parties and also taking into consideration, Regulation 6(b) of the Tamil Nadu Electricity Supply Code, has allowed the said writ petitions, vide common order dated 14.08.2020, with the following directions:

"45 The above discussion leads this Court to the only conclusion that the maximum demand charges and the compensation charges levied by TANGEDCO against the petitioners who are HT consumers, is illegal, unsustainable and in violation of the statutory regulations. Accordingly, the Maximum Demand Charges and the compensation towards low PF that have been questioned in the impugned bills raised by the TANGEDCO for each of the consumers who are parties in these batch of writ petitions, is hereby quashed. The following directions are also issued by this Court:

a) TANGEDCO shall issue a revised bill to the petitioners by applying Regulation 6(b) of the Supply Code for the entire period when the establishment was under shut down;

b) If TANGEDCO has already recovered the entire dues from any of the petitioners, the bill shall be reworked in accordance with the direction given in Clause (a) and the excess amount shall be adjusted towards the future bills;

c) If the demand made by TANGEDCO has been adjusted from the security deposit and any of the petitioner has been asked to pay any amount towards additional security deposit on that count, the said claim shall be withdrawn forthwith and the calculation of the additional security deposit shall be independently done under Regulation 5 of the Supply Code and demand/ adjustment shall be done in accordance with the said Regulation;

d) The TANGEDCO shall not levy compensation charges towards low PF from the petitioners during the period of lockdown. Even if such levy is made in future, show cause notice shall be issued to the consumer and an opportunity shall be given to the consumer before levying any compensation under Clause 6.1.1.6 of the Tariff Regulation;

e) If any amount has already been recovered towards levy of compensation charges for low PF from any of the petitioners, the said amount shall be adjusted towards future bills;

f) These directions will apply only for the period during which the establishment was under total lockdown due to the orders issued by the Government and it is made clear that it pertains only to the Minimum Charges payable under Regulation 6(b) of the Supply Code and there is no exemption or concession insofar as the charges payable for the actual consumption of electricity (Energy Charges); and

g) If any of the establishments continue to be under lockdown due to the Government Orders passed in this regard, the minimum charges alone shall be collected till the lifting of the lockdown."

Following the aforesaid order passed by this Court, the respondent Board has issued a Circular in Memo No.CFC/REV/FC/REV/DFC/AO/D.698/20 dated 07.10.2020.

3. The learned counsel for the petitioner seeks similar relief as granted by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020. According to the petitioner, he has

already paid the CC Bill amount to the respondent Boards with protest and seeking refund or adjustment of amount in the future bills.

4. The learned Standing Counsel for the respondents Board would submit that they have preferred a Writ Appeal in W.A.No.836/2020 before this Court and the same is pending without any interim orders.

5. In view of the aforesaid common order passed by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020 and the Circular of the Respondents Board dated.7.10.2020, the respondent Board is directed to consider the claim of the petitioner by revising the bills and adjusting the same in future bills, as per the directions issued by this Court in W.P.Nos.7678 of 2020 etc., batch dated 14.08.2020, by taking note of the lockdown notification issued by the State Government from time to time and to take appropriate decision and to communicate the same to the writ petitioner, within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that any decision taken by the respondents Board, will be subject to the outcome of the orders passed in W.A.No.836/2020 filed by the respondent Board.

6. With the above direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Chairman & Managing Director,
The Tamil Nadu Generation and Distribution
Corporation Ltd. (TANGEDCO),
144, Anna Salai, Chennai-600002.
2. The Chief Financial Controller-Revenue,
Tamil Nadu Generation & Distribution
Corporation Limited (TANGEDCO),
NPKRR Maligai, 144, Anna Salai,
Chennai-600 002.

3. The Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmani Lakshmipathy Road,
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4. The Secretary to Government,
The Government of Tamil Nadu,
Energy Department, Fort St.George,
Chennai-600 009.
5. The Superintending Engineer,
The Tamil Nadu Generation and Distribution
Corporation Ltd.,
Chengalpattu.

+1cc to TVT Associates, Advocate, S.R.No.32380

W.P.NO.11294 OF 2021

PL(CO)
PBS(28/07/2021)