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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.16017 OF 2021

&

W.M.P.NO.16934 & 16935 OF 2021

G.Jayakumar

... Petitioner

-Vs-

1. The Superintendent Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited,
C.E.D.C. North,
No.800, Anna Salai,
Chennai - 600 102.
2. The Executive Engineer (O&M),
C.E.D.C. (North),
Tamil Nadu Generation and
Distribution Corporation Limited,
Tondiarpet,
NO.805, T.H.Road,
Chennai - 600 081.
3. The Assistant Executive Officer (O&M),
Tamil Nadu Generation and
Distribution Corporation Limited,
Tondiarpet,
No.805, T.H.Road,
Chennai - 600 081.
4. The Junior Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited,
Tondiarpet,
Chennai - 600 081.

... Respondents

PRAYER:-

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Madamus calling for the records of the 3rd Respondent by its proceedings Lr.No.A.E.E/O&M/T.P/N.I/Ko.APTS/No.026/2021 dated 08.07.2021 and



all other connected records and quash the same and consequently direct the 4th Respondent to consider the petitioner representation for change of tariff connection from commercial to domestic in service connection No.011-001-1110.

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For Petitioner : Mr.V.Manoharan

For Respondents : Mr.L.Jaivenkatesh,
Standing counsel
For R1 to R4

O R D E R

The subject matter of challenge in the present writ petition pertains to the proceedings of the 3rd respondent dated 08.07.2021 and for a consequential direction to the 4th respondent to consider the representation made by the petitioner wherein the petitioner has sought for the change of tariff from industrial to domestic in service connection No.011-001-1110.

2. When the matter came up for hearing on 25.08.2021, this Court passed the following order :-

There are two service connections that were given to the petitioner, who was running an industry and those service connections are 011-001-1110 and 011-001-0456. An inspection was conducted in the factory premises and theft of energy was detected.

2. The petitioner filed WP No.16863 of 2005 challenging the proceedings of the 1st respondent dated 03.05.2005, which pertains to service connection No.011-001-1110. The petitioner also challenged the order passed by the 1st respondent dated 29.06.2004 pertaining to service connection No.011-001-0456 in WP No.20934 of 2004. The first writ petition was disposed of by directing the petitioner to deposit an amount of Rs.14,102/- and on such deposit, the 1st respondent was directed to dispose of the Appeal. Insofar as the second writ petition is concerned, the same was dismissed for non-prosecution on 17.12.2018.

3. The petitioner sought for change of tariff from commercial to domestic insofar as the service connection No.011-001-1110. This was rejected by the 3rd respondent and aggrieved by the same, the



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present writ petition has been filed before this Court.

4. The learned counsel for the petitioner submitted that the petitioner is willing to pay the amount that is due and payable insofar as service connection No.011-001-0456 in installments. The learned counsel further submitted that since the appeal is pending before the 1st respondent insofar as service connection No.011-001-1110 is concerned, the petitioner will abide by the decision taken by the 1st respondent in the Appeal.

5. The learned Standing counsel appearing on behalf of the respondents is directed to file a calculation memo. The calculation memo shall separately indicate the amount that is due and payable for service connection Nos.011-011-1110 & 011-001-0456. The learned Standing counsel shall also take instructions as to the stage of the Appeal that is said to be pending before the 1st respondent and whether it has been disposed of in accordance with the directions issued by this Court in WP No.16823 of 2005 dated 07.08.2013.

6. Post this case under the caption for orders on 02.09.2021.

3. Thereafter, the learned Standing Counsel appearing on behalf of the respondents filed a calculation memo on 02.09.2021 and a copy of the same was also furnished to the learned counsel for the petitioner.

4. It is seen from the calculation memo that insofar as service connection No.011-001-0456 is concerned, the petitioner is due and payable a sum of Rs.1,08,823/- along with belated payment surcharge of a sum of Rs.52,235/- and in total a sum of Rs.1,61,058/-. Insofar as service connection No.011-011-1110 is concerned, the total amount that is due and payable has been arrived at Rs.3,28,214/- along with the belated payment surcharge of a sum of Rs.4,67,705/-.

5. Insofar as service connection No. 011-001-0456 is concerned, the petitioner is seeking for payment of the amount by way of installments. Insofar as the other service connection is concerned, there is admittedly an appeal pending before the first respondent. In the meantime, the petitioner is seeking for change of tariff from industrial to domestic for service connection No. 011-001-1110.



6. Taking into consideration the facts and circumstances of the case and in order to balance the rights of both the parties, this Court is inclined to dispose of the writ petition by issuing the following directions:-

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(a) The petitioner is directed to pay the sum of Rs.1,61,058/- insofar as service connection No.011-001-456 in six equal monthly installments starting from October 2021 at the rate of Rs.26,843/- every month.

(b) The 1st respondent is directed to dispose of the Appeal that is pending insofar as service connection No. 011-001-1110 within a period of four weeks from the receipt of the copy of this order.

(c) The representation made by the petitioner for the conversion of the industrial tariff to domestic tariff shall be considered immediately after the disposal of the Appeal by the 1st respondent and subject to the decision taken by the 1st respondent. and

(d) If ultimately at the time of disposal of the Appeal by the 1st respondent, any amount is due and payable for service connection No.011-001-1110, the same shall also be paid by the petitioner. If a request is made by the petitioner to pay the same in installments, the same shall also be considered by the 1st respondent. No costs. Consequently, the connected miscellaneous are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sha/rka

To

1. The Superintendent Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited,
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4. The Junior Engineer,
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Distribution Corporation Limited,
Tondiarpet,
Chennai - 600 081.

+1cc to Mr.V.Manoharan, Advocate, S.R.No.45392
+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.45262

W.P.NO.16017 OF 2021 &
W.M.P.NO.16934 &16935 OF 2021

NR(CO)
PBS/28/09/2021