



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.A. (MD) .No.1111 of 2012

WEB COPY

M.Eswaramoorthy

... Appellant/Petitioner

-vs-

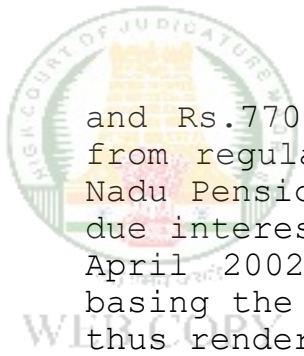
1. Deputy Secretary to Government,
Tamil Nadu Generation & Distribution
Corporation (TANGEDCO / TNEB),
Department of Energy (Electricity),
Secretariat, St.George Fort,
Chennai - 600 009.
2. The Chairman cum Managing Director,
Tamil Nadu Generation & Distribution
Corporation (TANGEDCO / TNEB),
144, Anna Salai,
Chennai - 600 002.
3. The Superintending Engineer,
Tamil Nadu Generation & Distribution
Corporation (TANGEDCO / TNEB),
Kanyakumari Electricity Distribution Circle (KKEDC),
Circle Office,
Parvathipuram, Nagercoil - 629 003,
Kanyakumari District.
4. The Executive Engineer,
Tamil Nadu Generation & Distribution
Corporation (TANGEDCO / TNEB),
Kuzhithurai Distribution Section,
Kanyakumari Electricity Distribution Circle (KKEDC),
Kanyakumari District-629 159.

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.13562 of 2012, dated 18.10.2012.

Prayer in WP(MD). 13562/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents 1 to 4 to pay back two illegal recoveries of Rs.1,744/- made on the date of retirement 28.02.2002 from Provisional pension



and Rs.770/- made after retirement in the month of February 2004 from regular pension total Rs.2,514/- in accordance with The Tamil Nadu Pension rules, 1978 and also to pay back to the petitioner with due interest for 12 months delay in disbursing retiral benefits from April 2002 to March 2003 along with compensation of Rs.10,000/- basing the representation of this petitioner dated 20th May 2011 and thus render justice.

For Appellant : Mr.V.J.Kumaravel
For R.1 : Mr.R.Ragavendran
Government Advocate
For R2 to R4 : Mr.T.Sakthi Kumaran

J U D G M E N T

(Judgement of the Court was made by V. BHARATHIDASAN, J.)

This Writ Appeal is filed to set aside the order passed by this Court in W.P(MD)No.13562 of 2012, dated 18.10.2012.

2.According to the appellant, he was working as Junior Engineer in the respondent Electricity Board. While he was in service, on two occasions, a sum of Rs.1744/9 and a sum of Rs.770/- respectively have been illegally recovered. To refund the same, the appellant has made representations. Since the representations of the appellant was not considered, he has filed writ petition. The learned single Judge of this Court dismissed the writ petition on the ground of delay and laches. Challenging the order passed by the learned single Judge, the petitioner has filed the present Writ Appeal.

3.Mr.V.J.Kumaravel, learned counsel appearing on behalf of the appellant would vehemently contend that on two occasions, certain amounts have been illegally recovered from the appellant without any valid reason. The appellant filed an appeal before the authorities and the appeal was not considered by them and therefore, the appellant has left with no other option but to approach this Court and file a writ petition. Without considering all these facts, the learned single Judge dismissed the writ petition only on the ground of laches. According to him, the appellant is pursuing his remedy from the authorities from the year 2002 and since no suitable order has been passed by the authorities, the petitioner filed the writ petition in the year 2012 and there is no laches on his part.

4.Mr.T.Sakthi Kumaran, learned counsel for the respondents 2 to 4 would submit that earlier order of recovery was passed in the year 2002 and the petitioner is said to have challenged the order by way of appeal before the Chairman in the year 2006. The proceedings available in the Board shows that suitable reply was also given to the petitioner by the Superintending Engineer in the year 2007 itself. Suppressing all those facts, the appellant has approached this Court and therefore, the learned Single Judge has dismissed the



writ petition.

5.We have heard the rival submissions and perused the documents.

6.The order of recovery was passed against the petitioner in the year 2002. First of all, the petitioner has to challenge the order of recovery and without doing the same, the petitioner has filed writ petition seeking a mandamus to refund the amount, which is not maintainable. Even though the order of recovery has been passed in the year 2002, the petitioner has filed the writ petition in the year 2012 after lapse of 10 years and there is no explanation for the delay. Considering all those aspects, the learned single Judge has rightly dismissed the writ petition. We find no illegality in the order by the learned single Judge.

7.In the result, this Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

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.

To

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Department of Energy (Electricity),
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+1 CC to M/s.V.J.KUMARAVEL, Advocate (SR-30287[F] dated
27/09/2021)

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-30406[F] dated
27/09/2021)

ORDER MADE IN
W.A. (MD) .No.1111 of 2012
24.09.2021

KMK (CO)

RS (06.10.2021) 4P 7C