



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.3808 of 2021

and

W.M.P. (MD) .Nos.3220 and 3222 of 2021

G.Shofia

... Petitioner

Vs.

1. The Executive Engineer,
Tamil Nadu Electricity Generation and Distribution Corporation,
Jeyaram Nagar, Athipatti, Aruppukkottai,
Virudhunagar District.

2. The Assistant Engineer,
Tamil Electricity Generation and Distribution Corporation,
Aruppukkottai, Virudhunagar District. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to 1st impugned demand notice, dated 25.02.2019, made in Ka.No.U.Mi.Po.Na.Va.A3/Ko.No.Na/A.No.043 and 2nd impugned demand notice, dated 09.07.2019, made in Ka.No.U.Mi.Po.Na.North/Aruvai/KoNo:1/A.No:178, issued by the second respondent and quash the same and consequently directing the respondents to change the Tariff Plan of the petitioner's EB Connection No.07203011606 from Tariff V to Tariff LT 1-A.

For Petitioner

: Mr.R.Murugapoopathy

For Respondents

: Mr.S.M.S.Johny Basha

ORDER

This Writ Petition has been filed challenging the impugned demand notice, issued by the second respondent, dated 25.02.2019 and the subsequent demand notice issued by the second respondent, dated 09.07.2019 and for a consequential direction to the respondents to change the Tariff Plan from Tariff V to Tariff LT 1-A.

2. The case of the petitioner is that she purchased the property with a constructed house from one Selvam, through a registered sale deed, dated 07.04.2014. According to the petitioner, immediately after purchase of the property, she made an application before the second respondent for change of name. According to the petitioner, the change of name was also effected in the name of the petitioner in the year 2014 itself.



3. The grievance of the petitioner is that she received electricity bill where an exorbitant amount was demanded from her. Hence, the petitioner made a representation in this regard on 19.01.2019 to change the Tariff to LT 1-A.

4. It is at this point of time, the impugned demand notice was issued by the second respondent on 25.02.2019, directing the petitioner to pay a sum of Rs.1,99,949/- (Rupees One Lakh Ninety Nine Thousand Nine Hundred and forty nine only) as arrears. The petitioner gave a detailed representation on 15.05.2019 and took a stand that at no point of time, the tariff was classified under Tariff VI. Thereafter, the second respondent issued the subsequent demand notice dated 09.07.2019. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard Mr.R.Murugapoopathy, learned counsel appearing for the petitioner and Mr.S.M.S.Johny Basha, learned Standing Counsel appearing for the respondents.

6. The second respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:-

4.I respectfully submit that the said Mr.Jayamurugan had sold property to one Selvam on 02.07.2009. Thereafter, no consumption was recorded upto 2011. Hence the supply was disconnected on 28.01.2010. Then it was restored on 01.04.2011. After restoration the above supply was changed from Tariff IA to V for commercial purpose in the name of Jayamurugan. The said Mr.Selvan did not change his name and enjoyed the supply in the name of Jayamurugan. In the meantime, the said meter burned hence the meter was changed on June 2013. Thereafter, they sold the building with service connecting to the petitioner on 07.04.2014. It is bounden duty of the consumer to give prior intimation to the TANGEDCO as per Regulation 17 (4) of the Tamil Nadu Electricity Supply Code, 2004.

5.I respectfully submit that the petitioner had applied name transfer application to change her name in the service connection No.07-203-011-606. After verifying the records name transfer was effected on 04.08.2014. Neither the petitioner nor his vendor did not seek tariff change from Tariff V to Tariff IA. The tariff revision application first received on 19.01.2019 from this petitioner.

6.I respectfully submit that TNERC is revised



the tariff dated 20.06.2013 by its order T.P.No.1 of 2013 with effect from 21.06.2013. In this order TNERC clarified that commercial purpose will come under Tariff V and construction purpose will come under Tariff VI. The cost variation from Tariff V and Tariff VI ie., Rs.5 per unit is the difference amount. The petitioner did not disclose the purpose of consumption will henc the Board to incur this loss. The petitioner made representation before the TANGEDCO requested to change the Tariff from V to IA and explained that construction was completed. The representation was made on 19.01.2019.

7.I respectfully submit the petitioner service was reassessed from 06.07.2013 to 10.01.2019. The demand notice issued on 25.02.2019. The petitioner states that reply was given on 15.05.2019 through registered post. The reply notice is not available in the office. Hence the demand amount considers to be arrear and the same will be added to live service as per Regulation 17 (8) of the Tamil Nadu Electricity Supply Code, 2004. I issued show cause notice to the petitioner dated 09.07.2019. The petitioner filed complaint before the Consumer Disputes Redressal Commission in C.C.No.36 of 2019, which is pending.

7. In the considered view of this Court, the second respondent has issued the demand notice on the premise that the Tariff Plan between 06.07.2013 to 10.01.2019 was under Tariff VI and whereas, the petitioner was paying under Tariff V during this period. The petitioner has given a detailed reply for this demand notice on 15.05.2019 and has taken a stand that at no point of time, the Tariff Plan was assessed under Tariff VI. The petitioner has ultimately sought for the change of the Tariff Plan from Tariff V to Tariff LT 1-A. The second respondent on receipt of the reply given by the petitioner ought to have considered the reply and passed an order. Instead, a subsequent demand notice has been issued.

8. The impugned demand notice dated 09.07.2019 is hereby quashed. There shall be a direction to the second respondent to consider the reply given by the petitioner on 15.05.2019 for the notice issued by the second respondent on 25.02.2019 and orders shall be passed strictly in accordance with law within a period of four (4) weeks from the date of receipt of a copy of this order. Till the final orders are passed, the respondents are directed to collect the electricity bill under Tariff V from the petitioner.



9. The writ petition stands allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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// True Copy //

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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.

W.P. (MD) .No.3808 of 2021
05.07.2021

KMK (CO)
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