



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2021

CORAM

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. (MD)No.24459 of 2016

and

W.M.P. (MD)No.17657 of 2016

WEB COPY

C.Balasubramanian,
Foreman Grade-I,
Office of the Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO/South),
Vaiyampatti, Manapparai,
Trichy District.

... Petitioner

Vs.

1.The Assistant Engineer (O&M),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO/South),
Vaiyampatti, Manapparai,
Trichy District.

2.The Assistant Executive Engineer (O&M),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO/South),
Vaiyampatti, Manapparai,
Trichy District.

... Respondents

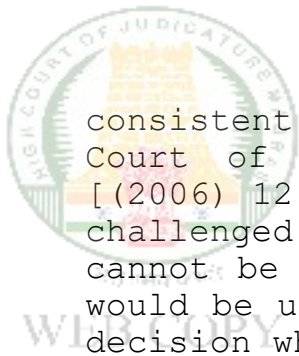
Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, calling for the records relating to the proceedings of the second respondent herein dated 30.11.2016 issued under Ref.Ku.Aa.No.U.Se.Po/E.Kaa/Vai/Ko.Thani /A.No.38/2016 , dated 30.11.2016 and quash the same.

For Petitioner : Mrs.AL.Ganthimathi
For Respondents : Mr.M.Venkatesh
Mr.T.Sakthi Kumar

ORDER

Heard Mrs.AL.Ganthimathi, Learned Counsel for the Petitioner, Mr.M.Venkatesh, Learned Standing Counsel appearing for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Order in Ref.Ku.Aa.No.U.Se.Po/E.Kaa/Vai/Ko.Thani/A.No.38/2016, dated 30.11.2016 issued by the Second Respondent, which is evidently a charge-memo for which, the petitioner has been required to submit his explanation. The



consistent legal position has been reiterated by the Hon'ble Supreme Court of India in Union of India -vs- Kunisetty Satyanarayana [(2006) 12 SCC 28] that a charge memo or show-cause notice cannot be challenged before the completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion. It would be useful here to extract the relevant passages from the said decision which read as follows:

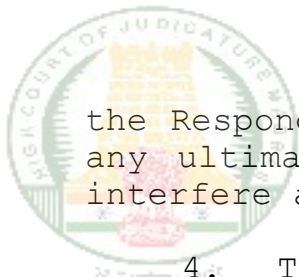
"13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide *Executive Engineer, Bihar State Housing Board vs. Ramdesh Kumar Singh and others* JT 1995 (8) SC 331, *Special Director and another vs. Mohd. Ghulam Ghouse and another* AIR 2004 SC 1467, *Ulagappa and others vs. Divisional Commissioner, Mysore and others* 2001(10) SCC 639, *State of U.P. vs. Brahm Datt Sharma and another* AIR 1987 SC 943 etc.

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

3. Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to



the Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for this Court to interfere at this pre-mature stage of the matter.

4. The Learned Counsel for the Petitioner contends that the Second Respondent had earlier issued another charge-memo dated 19.10.2016 for which the Petitioner had submitted an explanation dated 02.11.2016 and in view of the same, the charges against the Petitioner were withdrawn by Order in கு.ஆ.எண்.உ.செ.பொ./இ.கா.:வை/கோ.தனி/அ.எண்.36/2016 dated 30.11.2016 and in that circumstances, the impugned charge memo is without jurisdiction. It is clear from the Order in கு.ஆ.எண்.உ.செ.பொ./இ.கா.:வை/கோ.தனி/அ.எண்.36/2016 dated 30.11.2016 that the previous charge-memo had been withdrawn without prejudice to pursue the disciplinary proceedings against the Petitioner and the impugned charge-memo Order in கு.ஆ.எண்.உ.செ.பொ./இ.கா.:வை/கோ.தனி/அ.எண்.38/2016 dated 30.11.2016 has been issued simultaneously which cannot cause any prejudice to the Petitioner. In that view of the matter, it is not possible to accept the aforesaid contention raised.

5. At the time of admission of this Writ Petition, on 21.12.2016 the following interim order was passed:-

"Enquiry proceedings may go on, on day today basis without adjourning the matter not more than seven working days. However, final order shall be kept in abeyance.

Notice. Private notice is also permitted. Post on 02.02.2017."

6. Since there is no infirmity in the impugned charge-memo, the Respondents are not precluded from proceeding to pass final orders in the matter and the decision taken shall be communicated to the Petitioner expeditiously and in any event, on or before 30.06.2021. In the event of any adverse decision, the Petitioner may pursue legal remedies as provided by law and no view is expressed by this Court on the merits of the controversy involved in the matter.

7. In the result, the Writ Petition is dismissed with the aforesaid clarification. Consequently, the connected miscellaneous petition is closed. No costs.

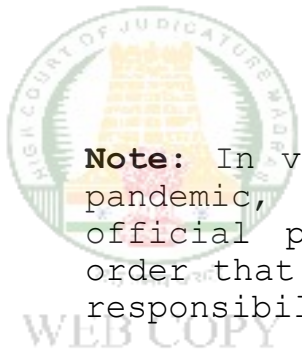
Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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

- 1.The Assistant Engineer (O&M),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO/South),
Vaiyampatti, Manapparai,
Trichy District.
- 2.The Assistant Executive Engineer (O&M),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO/South),
Vaiyampatti, Manapparai,
Trichy District.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-16386[F] dated
19/04/2021)

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-16445[F] dated 19/04/2021
)

W.P. (MD)No.24459 of 2016
17.04.2021

SRK(CO)
KB(10.05.2021) 4P 5C