



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.03.2022

WEB COPY

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.8390 of 2009
and M.P.Nos.1 & 2 of 2009

The Stud Manager,
Chettinad Stud and Agricultural Farm,
Orakadu Village,
Chennai - 600 067.

...Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
Represented by its Chairman,
No.144, Anna Salai,
Chennai - 600 002.

2. The Divisional Engineer,
(O and M),
Tamil Nadu Electricity Board,
Avadi.

3. The Assistant Engineer,
O and M/Sothuperumbedu,
Tamil Nadu Electricity Board,
Chennai - 600 067.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent dated 20.04.2009 in Letter No.AE/O & M/SPD/F.Audits/F/D.No.015 and quash the same as being arbitrary, illegal and violative of the provisions of the Electricity Act, 2003 and consequently direct the respondents to continue to classify the petitioner's service connection under Tariff III-B.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.L.Jaivenkatesh



ORDER

Heard Mr.Rahul Balaji, learned counsel appearing for the petitioner and Mr.L.Jai Venkatesh, learned Standing Counsel appearing for the respondent.

2.This writ petition has been filed, to quash the order of the 3rd respondent dated 20.04.2009, wherein, the petitioner was directed to pay Rs.6,37,215/-.

3.It is the submission of the learned counsel for the petitioner that the demand is barred under Section 56(2) of the Electricity Act. It is also argued that the impugned order came to be passed without providing opportunity to the petitioner.

4.The learned Standing Counsel appearing for the respondents would state that even in the affidavit filed in support of the petition, i.e., it is mentioned in the year 2009 a demand was made, hence Section 56(2) of the Act will not help the petitioner. According to the learned counsel there is no illegality in the impugned order and prayed for dismissal of the writ petition.

5.Heard the rival submissions made by the parties.

6.In the matter on hand, a perusal of the impugned order shows that the demand was made based on the audit objection. Further there is no material to show that the petitioner was provided with an opportunity before the impugned order came to be passed. On the sole ground of violation of principles of natural justice, the impugned order dated 20.04.2009 in Letter No.AE/O & M/SPD/F.Audits/F/D.No.015 is hereby set aside and the matter is remitted back for fresh consideration. The 3rd respondent shall pass orders afresh, after affording ample opportunity to the petitioner and in accordance with law. No costs. Consequently connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chairman
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.
2. The Divisional Engineer,
(O and M),
Tamil Nadu Electricity Board,
Avadi.
3. The Assistant Engineer,
O and M/Sothuperumbedu,
Tamil Nadu Electricity Board,
Chennai - 600 067.

+1 CC to Mr.R.Parthasarathy, Advocate sr 18538
+1 CC to Mr.L.Jaivenkatesh, Advocate sr 18250.

W.P.No.8390 of 2009

NR(CO)
SP(26/04/2022)