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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.30266 OF 2015

AND

MP NO.1 OF 2015

A.Jenix Dev Singh

...Petitioner

Vs.

1. The Chairman
Tamilnadu Electricity Board
Anna Salai, Chennai - 600 002.

2. The Assistant Engineer
(O&M) Nolambur,
CEDC / West, Chennai - 600 037.

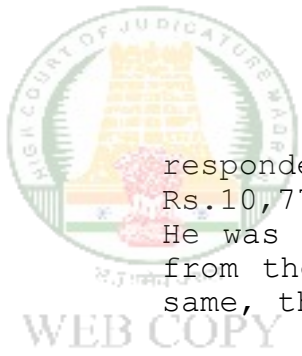
...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order dated 14.09.2015 made in L.No.AE/O & M/NLK/F.BOAB/D.No.337/2015-16 passed by the 2nd respondent pertaining to the temporary service connection S.C.No.437-009-514 relating to the period from July 2009 to January 2010, quash the same.

For Petitioner : Mr.N.Manokaran
For Respondents: Mr.L.Jai Venkatesh
Standing Counsel

O R D E R

The petitioner obtained temporary supply of electricity under Class 39 of the Tamil Nadu Electricity Distribution Code 2004, to carry on the construction activities in building flats. After completion of the construction work, he has requested the respondents to disconnect the temporary service connection and accordingly, it was disconnected on 28.02.2010. He has paid the dues whichever demanded by the respondent Board and a No Due Certificate was also issued. The outstanding bill also shows zero balance. However, by a letter dated 14.09.2015, the second



respondent has called upon the petitioner to pay a sum of Rs.10,77,955/- as shortfall amount arrived at by the BOAB Audit. He was directed to pay the amount within a period of seven days from the date of receipt of the said notice. Aggrieved over the same, the petitioner has preferred the writ petition.

2. Heard the submissions made on either side and perused the materials available on record.

3. On perusal of the impugned order, it is noted that it is very vague and bereft of specific details. It is not specified that as to when the BOAB Audit was conducted and as to how the calculation was made towards defective meter reading and average shortfall charges for the period between 07 / 2009 and 01 / 2010. Further, no show cause notice was issued to the petitioner for submitting his explanation. Without providing the details of outstanding, method of calculation and without affording an opportunity of personal hearing, the said order came to be passed in violation of principles of natural justice. On this ground alone, it is liable to be set aside. Further, the meter was disconnected on 28.02.2010. Whereas without specifying the date of BOAB Audit, the respondent Board arrived at the shortfall amount of Rs.10,77,955/-. The demand was made after a period of five years. The demand is belated and deprived opportunity to the petitioner to effectively defend his case. On the ground of delay also, the impugned order is not sustainable. The respondents after having collected the money for defective average shortfall charges and after issuing No Due Certificate and after disconnecting the temporary service connection, cannot reopen this after a period five years. Therefore, this Court is inclined to set aside the impugned order.

4. Accordingly, the impugned order dated 14.09.2015 passed in L.No.AE/O&M/NLK/F.BOAB/D.No.337/2015-16 by the second respondent pertaining to the temporary service connection in S.C.No.437-009-514 stands set aside. The conditional deposit made by the petitioner is directed to be refunded within a period of six weeks from the date of receipt of a copy of this order.

5. In fine, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar



TK

To

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1. The Chairman
Tamilnadu Electricity Board
Anna Salai, Chennai - 600 002.
2. The Assistant Engineer
(O&M) Nolambur,
CEDC / West, Chennai - 600 037.

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.19998
+1cc to Mr.N.Manokaran, Advocate, S.R.No.19702

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SSD[col]
NSK/31/05/2022