



WEB COPY



W.P.No.5075 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.5075 of 2014

&

M.P.No.1 of 2014

Senior Divisional Electrical Engineer
Traction Distribution Branch
Chennai Division, Southern Railway
chennai-600 003

... Petitioner

Vs.

1.The Superintending Engineer
Chennai Electricity Distribution Circle/North
Tamil Nadu Generation and Distribution Corporation
Anna Salai, Chennai-600 002

2.Consumer Grievance Redressal Forum
Chennai Electricity Distribution Circle/North
Rep by its Chairman
Anna Salai, Chennai-600 002

3.Tamil Nadu Electricity Ombudsman
19-A, Rukmini Lakshmiipathy Salai (Marshals Road)
Egmore, Chennai-600 008

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records culminating in the order dated 25.10.2013 passed in Appeal petition No.25 of 2013 by the 3rd respondent and quash the same and consequently direct the 1st respondent herein to adjust or refund the Tamil Nadu Generation and Distribution Corporation's HT Service No.1309 dated 31.05.2012.



W.P.No.5075 of 2014

WEB COPY

For Petitioners : Mr.M.Vijay Anand

For Respondents :

For R1 : Mr.L.Jaivenkatesh, Standing Counsel for R1

R2 & 3 : No Appearance.

ORDER

This Writ Petition has been filed challenging the order dated 25.10.2013 in Appeal Petition No.25 of 2013 by the 3rd respondent.

2. The Writ Petition has been filed challenging the order mainly on the ground that various suggestions and guidelines have not been followed by the 3rd respondent and not properly given adjustment of the tariff. It is brought to the notice of this Court in a connected Writ Petition No.5076 of 2014 filed challenging the orders of the 3rd respondent in a similar AP.No.25 of 2013 dated 25.10.2013, wherein this Court has held as under:

“.....

8. From the reading of tariff order No.1 of 2012, dated 30.03.2012 issued by the Tamilnadu Electricity Regulatory Commission, Chennai with effect from 31.03.2012 and the subsequent Tariff order No.1 of 2013 dated 20.06.2013 and of the observations of the Tamilnadu Electricity



WEB COPY



W.P.No.5075 of 2014

Ombudsman, in his order in A.P.No.25 of 2013, dated 25.10.2013, it is clear that Tamilnadu Electricity Regulatory Commission, Chennai has not expressed any views, on the objections/suggestions, made by the Southern Railways, with reference to the matter stated supra. That issue remains unanswered. But TANGEDCO, has continued to levy excess demand charges, periodically, which according to Southern Railways, is not permissible. At this juncture, this Court deems it fit to extract the reply to the objections of Railways, by TANGEDCO. At para 2.413, TANGEDCO has replied to the objection as follows:

“2.413: The request of the Southern Railways not to levy any penalty for occasional exceeding above to the contracted Maximum Demand is not related to the tariff order and can be considered only by way of an amendment to the Tamilnadu Electricity Supply Code. Hence, the Southern Railways are requested to approach the Tamilnadu Electricity Regulatory Commission for making necessary amendment to the TNERS Supply Code.”

9. Tamilnadu Electricity Regulatory Commission, Chennai, has not specifically expressed any view or given any finding, on the objections/suggestions, stated supra, except on the aspect of exemption of tax. Therefore, it is evident



W.P.No.5075 of 2014

that Southern Railways, has been constrained to pay a sum of Rs.3,19,17,113/- till January 2014, on the demand charges claimed by TANGEDCO, for feed extension. According to Southern Railways, feed extension is due to TANGEDCO's power failure, and shut down.

.....

26. No sooner, Souther Railways files any petition, or application challenging the proceedings of the Chief Financial Controller in letter No.CFC/FC/DFC/AAO.HT/ AS.3/D.No.137/13 dated 01.12.2013, with applications for interim orders, or any other application, seeking modification of the Tariff orders, the Commission shall take up the interim applications and pass appropriate orders, on merits as expeditiously as possible. Till such time, the TANGEDCO, is restrained from enforcing any excess demand. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

3. By holding so, disposed of the Writ Petition granting Southern Railway to file an objection within a period of two weeks to take appropriate proceedings before the Commission for adjudication of the issues once again. As the earlier Writ Petition is connected with the same order and issue in this Writ Petition is one and the same the Writ Petition is disposed of with



W.P.No.5075 of 2014

the similar directions. The said exercise shall be completed within a period of one month from the date of receipt of a copy of this order. No costs.

Consequently, connected miscellaneous petition is closed.

27.09.2022

kpr

Internet: Yes

Speaking/Non speaking order

To

1.The Superintending Engineer
Chennai Electricity Distribution Circle/North
Tamil Nadu Generation and Distribution Corporation
Anna Salai, Chennai-600 002

2.Consumer Grievance Redressal Forum
Chennai Electricity Distribution Circle/North
Rep by its Chairman
Anna Salai, Chennai-600 002

3.Tamil Nadu Electricity Ombudsman
19-A, Rukmini Lakshmipathy Salai (Marshals Road)
Egmore, Chennai-600 008



WEB COPY



W.P.No.5075 of 2014

N. SATHISH KUMAR, J.

kpr

W.P.No.5075 of 2014
&
M.P.No.1 of 2014

27.09.2022