



WEB COPY



WP No.33793 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-10-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.33793 of 2018

And

WMP No.39239 of 2018

K.Sellamuthu

..

Petitioner

VS.

1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
Anna Salai,
Chennai – 600 002.

2.The Assistant Audit Officer,
Audit Party No.4,
Audit Branch,
Tamil Nadu Generation and Distribution
Corporation Limited, (TNED),
Erode – Region.

3.The Executive Engineer/Operation and Maintenance,
Distribution / South,
Erode Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited,
Erode.

..

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned copy of the impugned Audit Slip No.1 dated 11.10.2018 passed by the second respondent and the consequential impugned recovery order made in Ku.Aa.No.1253/Say.Po./V/The/E.Ni.Pi/2018 dated 07.12.2018 passed by the third respondent are illegal and quash the same.

For Petitioner : Mr.P.Muthukrishnan

For Respondents : Mr.P.Subramanian,
Standing Counsel for TANGEDCO.

O R D E R

The order of recovery issued by the respondents based on the Audit Slip, is under challenge in the present writ petition.

2. The petitioner joined as Helper in the respondent-Electricity Board. He was promoted to the post of Commercial Assistant and thereafter to the post of Commercial Inspector and as Foreman Grade-I on 30.08.2007.



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The petitioner as of now is holding the post of Special Foreman Grade-I with effect from 30.09.2014.

3. The wage revision was effected based on 18(1) Settlement to the writ petitioner with effect from the year 2002. Based on the revision of scale of pay, the petitioner was receiving his salary.

4. The Audit Party raised an objection in the year 2018 stating that the punishment imposed on the writ petitioner in the year 1998 was not given effect to and therefore, the revision of pay granted to the writ petitioner with effect from the year 2002 was an erroneous fixation and accordingly raised an audit objection. Based on the audit objection, the third respondent issued the impugned order to recover the excess salary paid to the writ petitioner from the year 2002 onwards.

5. The learned counsel for the writ petitioner made a submission that the revision of scale of pay granted to the writ petitioner in the year 2002 is sought to be recovered through the impugned order in the



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year 2018 after a lapse of 16 years. That apart, the petitioner during the relevant point of time was working in Group-IV Services and now he is working in Group-III Services. Thus the order impugned is liable to be set aside.

6. The order impugned was issued to the writ petitioner without issuing any show cause notice to him. Thus an opportunity to defend his case was denied and consequently, the order impugned is in violation of the principles of natural justice. That apart, the revision was effected based on the 18(1) Settlement during the year 2002.

7. The non-consideration of the effect of the order of punishment imposed on the writ petitioner in the year 1998 was the mistake committed by the establishment of the respondent-TANGEDCO Office for which the petitioner cannot be penalised after the lapse of 16 years by way of an order of recovery.

8. That apart, the respondents have not issued any show cause



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notice affording an opportunity to the writ petitioner to defend his case. For all these reasons, the order impugned is infirm. Thus, the Audit Slip No.1 dated 11.10.2018 passed by the second respondent and the consequential recovery order passed by the third respondent in proceedings Ku.Aa.No.1253/Say.Po./V/The/E.Ni.Pi/2018 dated 07.12.2018 dated 07.12.2018, are quashed.

9. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

27-10-2022

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

1.The Chairman,
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Chennai – 600 002.

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S.M.SUBRAMANIAM, J.

Svn

- 2.The Assistant Audit Officer,
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- 3.The Executive Engineer/Operation and Maintenance,
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Tamil Nadu Generation and Distribution
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