



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.7443 of 2020

and

W.M.P.(MD) Nos.6901 & 6902 of 2020

N.Shunmuga Sundaram

... Petitioner

-vs-

- 1.The Secretary,
Secretariat Branch, TANGEDCO,
10th Floor, NSPKRR Maligai,
144, Anna Salai, Chennai-2.
- 2.The Chief Engineer/Personnel,
TANGEDCO, 144, Anna Salai, Chennai-2.
- 3.The Superintending Engineer,
TANGEDCO, Distribution Circle,
Tuticorin.
- 4.The Administrative Officer,
TANGEDCO/TNEB, Distribution Circle,
Tuticorin.
- 5.The Assistant Audit Officer,
AP-2/Audit Branch, Tirunelveli District. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Audit Slip No.12 dated 19.05.2020 issued by the 5th respondent and the consequential recovery order vide மே.பா.பொ.அலுவலகம்/தூயிபவ/தூயி கு.ஆ.எ.1021/நி.அ/நிப4/27/கோ.தணிக் கை/20 issued by the 4th respondent dated 09.06.2020 and quash the same as illegal with the consequential direction to



consider the petitioner's representation dated 11.06.2020 submitted in person through proper channel.

For Petitioner : Mr.D.Saravanan
For RR1 to 4 : Mr.S.Arivalagan,
Standing Counsel
For R5 : Mr.N.Satheesh Kumar,
Additional Government Pleader

O R D E R

The order of recovery dated 09.06.2020 issued by the 4th respondent is sought to be quashed mainly on the ground that the petitioner was not provided with an opportunity to defend his case.

2.The learned counsel for the petitioner made a submission that no show cause notice was issued enabling the petitioner to defend his case and based on the audit objection, unilateral decision was taken by the respondents and the impugned order of recovery was passed.

3.The learned Additional Government Pleader is unable to establish that a show cause notice was issued to the writ petitioner and an opportunity was provided.

4.Thus, the order of recovery is in violation of the principles of natural justice.

5.This Court is of the considered opinion that any order affecting the rights of an employee must be issued only after providing opportunity to defend the case. Hence, the order passed by the 4th respondent in proceedings dated 09.06.2020 is quashed and the matter is remanded back to the 4th respondent for issuing a show cause notice within a period of four weeks from the date of receipt of a copy of this order setting out all facts and details. On receipt of the show cause notice, the petitioner is at liberty to submit his explanations/objections, if any, within a period of two weeks from the date of receipt of a copy of the show cause notice. Thereafter, the 4th respondent is directed to consider the explanations/objections and take a decision and pass orders on merits and in accordance with law as expeditiously as possible.



6. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

abr

To

1. The Secretary,
Secretariat Branch, TANGEDCO,
10th Floor, NSPKRR Maligai,
144, Anna Salai, Chennai-2.
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Tuticorin.
5. The Assistant Audit Officer,
AP-2/Audit Branch, Tirunelveli District.

+1 CC to M/s.D.SARAVANAN, Advocate (SR-9627[F] dated 02/03/2022)

+1 CC to M/s.SPL GP (SR-9748[F] dated 03/03/2022)

ORDER MADE IN
W.P. (MD) No.7443 of 2020
02.03.2022

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PNK(12.03.2022) 3P 8C