



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.1037 of 2019
and
WMP(MD)No.871 of 2019

B.Ramar

... Petitioner

Vs.

1.The Chairman / Managing Director
Tamilnadu Generation and Distribution
Corporation Ltd., No.800, Anna Salai,
Chennai - 2.

2.The Chief Internal Audit Officer,
Tamilnadu Generation and Distribution
Corporation Ltd., No.800, Annasalai,
Chennai - 2.

3.The Superintending Engineer,
General Construction circle,
Tamilnadu Electricity Board,
K.Pudur,
Madurai - 7.

... Respondents

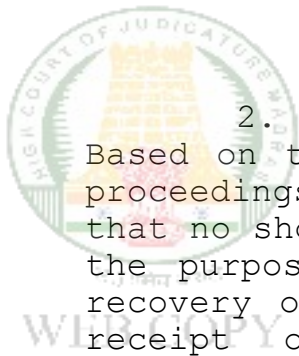
PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 3rd respondent dated 20.12.2018 Ku.Aha.No.151 / MayPo / PoNiva / Madu / VuNeeAha / SaPaPee / EneU3 / Ko.Thanekai /18-01 and 28.12.2018 Ku.Aha.No151/MayPo / PoNiva / Madu / VuNeeAha / SaPaPee / EneU3 / Ko.Thanekai / 18-02 and quash the same and direct the 3rd respondent to refund the recovered amount.

For Petitioner :Mr.R.Saravanan

For R1 to R3 :Mr.S.Arivalagan

O R D E R

The order of recovery and the rejection of the request of the writ petitioner to provide an opportunity are under challenge in the present writ petition.



2. The petitioner was working as Junior Engineer Grade-II. Based on the audit objections, an order of recovery was issued in proceedings dated 20.12.2018. Perusal of the order would reveal that no show cause notice has been issued to the writ petitioner for the purpose of defending his case. The respondents issued the recovery order to recover the excess amount of Rs.4,51,075/-. On receipt of order of recovery, the petitioner submitted a representation on 27.12.2018, clearly stating that the recovery was issued unilaterally without providing an opportunity to the writ petitioner. However, the said objections submitted by the petitioner again rejected by the respondents in proceedings dated 28.12.2018.

3. Every order affecting the service rights of an employee must be issued only after providing an opportunity to the employee. In the matter of audit objections, a show cause notice is to be issued setting out the details enabling the employee to submit his objections, if any. Only after providing an opportunity by issuing a show cause notice and on receipt of the explanation, a final decision is to be taken. Therefore, mere audit objection cannot culminate into an order of recovery directly without an opportunity to the aggrieved person and therefore, in the present case, the respondents have violated the principles of natural justice.

4. Accordingly, the impugned order passed by the 3rd respondent Superintending Engineer, dated 20.12.2018 and dated 28.12.2018, are quashed. The matter is remanded back to the 3rd respondent and the 3rd respondent is directed to issue a show cause notice setting out the details within a period of four weeks from the date of receipt of a copy of this order. On receipt of show cause notice, the petitioner is directed to submit his explanations / objections, along with the documents, if any, within a period of two weeks from the date of receipt of a copy of the show cause notice. Thereafter, the 3rd respondent shall consider the explanations, if any submitted by the writ petitioner and pass final orders, as expeditiously as possible.

5. With these directions, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK



To

1.The Chairman / Managing Director
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Chennai - 2.

2.The Chief Internal Audit Officer,
Tamilnadu Generation and Distribution
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Chennai - 2.

3.The Superintending Engineer,
General Construction circle,
Tamilnadu Electricity Board,
K.Pudur,
Madurai - 7.

+1 CC to M/s.S.ARIVALAGAN, Advocate (SR-6050[F] dated 14/02/2022)

+1 CC to M/s.R.SARAVANAN, Advocate (SR-5801[F] dated 11/02/2022)

W.P. (MD)No.1037 of 2019
10.02.2022

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