



WEB COPY

W.P.(MD) No.19774 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.19774 of 2019

and

W.M.P. (MD) No.16261 of 2019

Krishnakumar

... Petitioner

vs.

1.The Secretary

TANGEDCO 10th Floor

NSPKRR Maligai

144, Anna Salai

Chennai-2

2.The Superintending Engineer

Purchase and Administration

TANGEDCO, TTPS

Tuticorin-4

3.The Assistant Audit Officer

BOAB/CAP, TTPS

Tuticorin-4

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned proceedings of recovery vide Ku.No.270/Sa.Pa.Pi.2/Oo.8/KOO.Thanikai/2019, dated 21.08.2019, issued by 2nd respondent and consequential proceedings of recovery vide Ku.No.202/Ni.Pi3/Oo.1/Thoo.a.Mi.Ni/2019, dated 19.08.2019 issued by the 2nd respondent and quash the same as illegal and consequently direct the second respondent to reimburse petitioner salary a sum of Rs.14,000/- which was deducted from 01.07.2019.

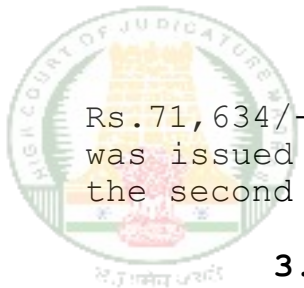
For Petitioner : Mr.D.Saravanan

For Respondents : Mr.S.Arivalagan, Standing Counsel

O R D E R

The audit objection, dated 19.08.2019 and the consequential recovery order dated 21.08.2019 , passed by the second respondent, are sought to be quashed in this writ petition.

2. The petitioner is working as Grade-II Fitter Category in the office of the respondents. He was appointed as Helper on 19.04.2001 and promoted to the post of Fitter Grade-II in the year 2005. Based on the audit objection of the year 2018, the second respondent issued the recovery order stating that excess amount of



Rs.71,634/- was paid to the petitioner. Though a show cause notice was issued to the petitioner, he has not submitted any reply. Thus, the second respondent issued the impugned recovery order.

3. This Court is of the considered opinion that the respondents are empowered to correct the mistakes in the fixation of pay. In other words, errors in fixation of pay are to be corrected in accordance with the Pay Rules in force. However, excess pay, if any paid to Group-III and IV employees or the retired employees, the same need not be recovered considering the hardship involved. In the event of recovering the excess pay, the same will cause prejudice to them and Courts have held that in such cases where there is extreme hardship in the event of such recovery, then the recovery of excess pay is to be set aside. However, the Authorities are bound to correct the mistakes in the fixation of pay and pay the correct salary as applicable to the employees in accordance with the Pay Rules in force.

4. In view of the above facts and circumstances, the audit objection, dated 19.08.2019 and the consequential recovery order dated 21.08.2019, passed by the second respondent, insofar as it relate to recovery of excess payment alone, are quashed. The respondents shall not recover the excess payment already made to the petitioner. However, they are bound to correct the errors in the pay fixation and pay the correct salary to the petitioner.

5. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Krk

TO

1.The Secretary
TANGEDCO 10th Floor
NSPKRR Maligai
144, Anna Salai
Chennai-2

2.The Superintending Engineer
Purchase and Administration
TANGEDCO, TTPS
Tuticorin-4

<https://hcservices.ecourts.gov.in/hcservices/>



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3.The Assistant Audit Officer
BOAB/CAP, TTPS
Tuticorin-4

+1 CC to M/s.D. SARAIVANAN, Advocate (SR-17400[F] dated 08/04/2022)

W.P.(MD) No.19774 of 2019
and

W.M.P.(MD) No.16261 of 2019
06.04.2022

SE (CO)

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