



*W.P(MD)No.16537 of 2014*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2022

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.16537 of 2014**

**and**

**M.P(MD)No.1 of 2014**

J.Pooventhera Rajan

... Petitioner

Vs.

The Junior Engineer (Distribution),  
Tamil Nadu Generation and Distribution Corporation Limited,  
Kottaram,  
Kanyakumari District.

... Respondent

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent in க.எண்.இநிபொ/வி/கொ/கோ.வ.மே/அ.எண் / 2014, dated 26.09.2014, (served me on 30.09.2014) and quash the same as illegal, unconstitutional and unlawful and to pass orders.

For Petitioner : M/s.R.Ponkarthikeyan

For Respondent : M/s.S.Deenadhayalan  
Standing Counsel



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### **ORDER**

The present Writ Petition has been filed challenging a demand notice issued by the respondent herein, under which, they have directed the writ petitioner to pay an additional amount for not converting from tariff V to tariff VI.

2. According to the learned Counsel for the petitioner, for construction purposes, they got a service connection on 02.03.2013 under tariff V. Tamil Nadu Electricity Regulatory Commission, by way of an order, dated 21.06.2013, declared that, hereafter tariff VI would be meant for construction purposes and tariff V would be meant for commercial purposes. However, the said fact was not brought to the notice of the writ petitioner to convert from tariff V to tariff VI. Hence, the consumer continued to pay the electricity charges only under tariff V, which was lesser than tariff VI. Thereafter, the present impugned order has been passed on 26.09.2014, demanding arrears amount due to change of tariff and non payment of arrears amount, would result in disconnection. This order is under challenge in the present writ petition.



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3. According to the learned Counsel for the petitioner, whenever the tariff gets changed, it is the bounden duty on the part of the respondent authorities to inform the consumer and thereafter, convert from tariff V to tariff VI. However, the respondent authorities have not informed the petitioner right from June 2013 onwards. Only when the impugned order was passed in September 2014, he came to know about this change of tariff and he was not in arrears of current consumption charges to the respondent Board. Further, the learned Counsel for the petitioner had contended that the order impugned in the writ petition has been passed, without issuing any notice to him. Hence, he prayed for allowing the writ petition.

4. Per contra, the learned Standing Counsel appearing for the respondent Board had contended that a show cause notice was issued to the writ petitioner on 23.09.2013, calling upon him to approach the authorities to enter into a fresh agreement for converting tariff V to tariff VI. However, he has not turned up to enter into a fresh agreement. Hence, the respondent authorities were forced to pass the present



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impugned order on 26.09.2014. Hence, he prayed for sustaining the order impugned in the writ petition.

5. I have carefully considered the submissions made on either side.

6. Admittedly, a service connection has been effected to the writ petitioner on 02.03.2013 for construction purposes under tariff V. Thereafter, the Tamil Nadu Electricity Regulatory Commission had passed an order on 21.06.2013, introducing a new tariff, namely, tariff VI for construction purposes. Admittedly, the charges under tariff VI were higher than the charges under tariff V. Hence, the authorities had made some attempts in September 2013 to inform the petitioner about the change of tariff and requested him to approach the authorities for entering into a fresh agreement. However, the said notice, dated 23.09.2013, is being disputed by the writ petitioner.

7. A perusal of the records furnished on the side of the writ petitioner would clearly indicate that the petitioner has completed the construction activities and he has occupied his residential house in May



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2015 and property tax assessment has also been effected in the name of the petitioner. Hence, it is clear that any additional amount towards change of tariff can be collected from 21.06.2013 till 31.05.2015 only. The authorities cannot collect any additional amount due to change of tariff from the writ petitioner beyond May 2015.

8. In the present case, though the learned Counsel for the petitioner contends that he is not liable to pay any amount prior to passing of the impugned order, this Court finds that the respondent Board are entitled to levy electricity charges under tariff VI right from the date on which, the Electricity Regulatory Commission passed an order on 21.06.2013. However, the authorities will not be entitled to impose any penalty or Belated Payment Surcharge (BPSC) as against the writ petitioner for delayed payment or non-payment of the difference in amount due to tariff change.

9. In view of the above said facts, this Court passes the following order:

*"(i) The order impugned in the writ petition is set aside.*



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*(ii) The matter is remitted back to the file of the respondent herein. The respondent shall issue a fresh demand notice to the writ petitioner for claiming difference in the amount for the period between 21.06.2013 and 31.05.2015. It is made clear that the respondent shall not impose any penalty or BPSC as against the writ petitioner, if the same is paid within a period of four (4) weeks from the date of demand notice."*

10. With the above said observation, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

**21.11.2022**

Index : Yes / No  
Internet : Yes / No  
btr

To

The Junior Engineer (Distribution),  
Tamil Nadu Generation and Distribution Corporation Limited,  
Kottaram,  
Kanyakumari District.



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**R.VIJAYAKUMAR, J.**

btr

Order made in  
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