



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.23374 of 2019

and

W.M.P. (MD) Nos.20031 & 20032 of 2019

T.Chairman

... Petitioner

-vs-

1.The Chairman,

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maligai,
Chennai-600 002.

2.The Superintending Engineer,

Tuticorin Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board, Tuticorin. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned Audit Slip communicated by the 2nd respondent in Audit Slip No.40 dated 13.05.2019 and quash the same and consequently direct the respondents to grant existing pay to the petitioner on par with petitioner colleagues.

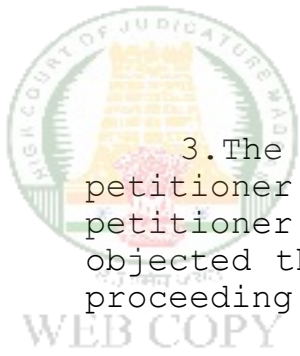
For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.S.Arivalagan

O R D E R

The audit slip dated 13.05.2019 is sought to be quashed in the present writ petition.

2.The petitioner was appointed as an Assessor in Tamil Nadu Generation and Distribution Corporation Limited. Based on the audit objection, the recovery was sought to be made from the salary of the writ petitioner.



3.The learned counsel appearing on behalf of the writ petitioner mainly contended that no opportunity was provided to the petitioner. However, the learned counsel for the respondents objected the said contention by stating that a notice was issued in proceeding dated 14.06.2019.

4.Perusal of the records would reveals that the petitioner admittedly has challenged the Audit Slip No.40, dated 13.05.2019. The audit slip was not served to the writ petitioner officially, as the slip was issued by the Assistant Audit Officer, who is not an authority to pass final order with reference to the recovery to be effected. The Assistant Audit Officer made an observation that excess amount may be recovered and if any excess payment of HRA and SLS to be worked at the petitioner's end, the pay to be revised as stated in the Audit Slip dated 13.05.2019 and the fact intimated to audit. Therefore, the Audit Officers have not taken a final decision. They have raised an objection and directed the authorities to workout the revised pay and accordingly, initiated action for recovery and communicated the same to the Audit Department. Therefore, the impugned order would not provide any cause of action for the writ petitioner to file the present writ petition. However, a notice was issued by the Superintending Engineer on 14.06.2019 asking the petitioner to submit his explanations/objections, if any, within a period of 7 days.

5.The learned counsel for the petitioner states that even before receiving the explanation, recovery has been effected and further, no final order has been passed.

6.This Court is of the considered opinion that after issuing the show cause notice, the petitioner has to submit his explanation and only after the expiry of period contemplated in the show cause, the Superintending Engineer has to pass final order and communicate the said final order for the purpose of implementing the same. In the present case, no final order has been passed. However, show cause notice was issued and recovery has been effected. The petitioner has already submitted his representations on 01.07.2019 and also on 05.10.2019.

7.Taking note of the facts and circumstances of the case, the 2nd respondent is directed to consider the representations submitted by the writ petitioner and also the documents on record and thereafter, take a decision and pass final orders within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to submit additional explanations/objections, if any, within a period of one week from the date of receipt of a copy of this order.



8. With the above liberty, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

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/ /2022

Sub Assistant Registrar (CS)

abr

To

1. The Chairman,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maligai,
Chennai-600 002.

2. The Superintending Engineer,
Tuticorin Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board, Tuticorin.

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-6644[F] dated
17/02/2022)

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MGJ(04.03.2022) 3P 4C