



W.P.No.4595 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 21.11.2023

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**W.P.No.4595 of 2017
and
W.M.P.No.4820 of 2017**

V.Moorthy

... Petitioner
- Vs -

1.Tamil Nadu Generation & Distribution Co., Ltd.,
The Superintending Engineer / P&A.
Ennore Thermal Power Station / Ennore,
Chennai-57.

2.Tamil Nadu Generation & Distribution Co., Ltd.,
The Adm.Supervisor/OSS-I/ETPS,
Ennore Thermal Power Station,
Chennai-57.

3.Tamil Nadu Generation & Distribution Co., Ltd.,
The Executive Engineer / Mill Plant / ETPS,
Ennore Thermal Power Station / Ennore,
Chennai-57.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying to issue Writ of Certiorari, calling for the records of Tamil Nadu
Generation & Distribution Co., Ltd., The Superintending Engineer / P&A.



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Ennore Thermal Power Station / Ennore, Chennai-57, in Order dated 27.12.2016 in MEMO No.13832-4/SE/P&A/ETPS/Adm.3/A.2/F.EL/2016 and quash the same.

For Petitioner : Mr.S.Senthil Vel
For Respondents : Mr.David Sundar Singh
(Standing Counsel for TANGEDCO)

ORDER

This petition is filed by the petitioner, seeking to call for the records of the Tamil Nadu Generation & Distribution Co., Ltd., The Superintending Engineer / P&A. Ennore Thermal Power Station / Ennore, Chennai-57, in Order dated 27.12.2016 in MEMO No.13832-4/SE/P&A/ETPS/Adm.3/A.2/F.EL/2016 and quash the same.

2. This petitioner was appointed as Helper in TNGEDCO Ltd and he was promoted as IInd Grade Fitter and Ist Grade Fitter as per the norms and he was retired as Ist Grade Fitter in his service.

3. On 06.09.2013, the 1st respondent herein issued the order copy from X City Civil Court E.P.No.4728 of 2013 in A.C.P.No.108 of 2012 stating that he want to attach Rs.1,000/- per month to the Sriram City Union



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Finance Ltd., regarding he had given surety for his friend Ravichandran.

From 06.09.2014 to till his retirement, Rs.1000/- was deducted from the salary of the petitioner to the Sriram City Union Finance Ltd. On 23.12.2016, the petitioner has sent representation to the 1st respondent states that he is going to retire from service hence not deduct Rs.1000/- from his salary but till retirement there is no reply from the 1st respondent. The petitioner was retired from service without any remarks, but the 1st respondent given the impugned order stating that Rs.2,96,730/- (240 days E.L., leave amount) was deducted and the petitioner came to know that the said amount was to be deposited to the account of Sriram City Union Finance Ltd. Therefore, the petitioner filed the present writ petition before this Court.

4. The learned counsel for the respondents submitted that the above said recovery has been effected only upon the request of the petitioner vide his letter dated 23.12.2016 and in due between the order of the X Assistant City Civil Court only. The petitioner has not given any objection letter for the recovery of Rs.1000/- per month made from the salary of the petitioner



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for the period from September 2014 to November 2016 i.e., 27 months and the balance amount of Rs.29,678/- recovered and paid to City Civil Court as per the request of the petitioner vide his representation dated 20.01.2017 after the recovery of Rs.2,96,730/- from his earned leave encashment duly upon retirement on 30.12.2016, the petitioner has not preferred any appeal against the order dated 05.08.2016 of the attachment order of his salary and hence the petitioner is stopped from challenging the order of recovery which was effected as per his above request in due obedience to the order of the Execution Court. Therefore, the learned counsel for the respondents prayed to dismiss the writ petition.

5. Heard Mr.S.Senthil Vel, learned counsel for the petitioner and Mr.David Sundar Singh, learned standing counsel for TANGEDCO, appearing for the respondents.

6. The petitioner was a judgment debtor before the Court on the concerned E.P. As per the garnishee order of the Court, Rs.1,000/- per month was deducted from the salary of the petitioner and paid to the Sriram



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City Union Finance Ltd.

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7. It has to be noted that the petitioner was a judgment debtor and he cannot claim that he was not aware of the proceedings pending before the said Court. If at all he was aggrieved, in the year 2016 when he retires from service, he was aware about the proceedings and representation to be sent immediately regarding deduction of Rs.1,000/- per month from his salary. That being the case, he ought to have challenge the said E.P. order of attachment before the concerned Court, but, he was not done so. In 2023, he is coming and canvassing before this Court that the respondents ought to have inform the proceedings initiated against the judgment debtor and the same is not convincing the Court, this Court is not inclined to accept the same for the ignorance of the petitioner that he was not aware of the proceedings initiated and belatedly come to this Court and say that the said Court is not entitled to deduct his EL amount and recover the money from his salary.

8. With the above observation, this writ petition is dismissed. No



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costs. Consequently, connected miscellaneous petition is closed.

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V.BHAVANI SUBBAROYAN, J.,

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To

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