



W.P.(MD).No.7455 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.7455 of 2020

M/s.Shri Laxmi Spinners Private Limited,
represented by its Director,
Madurai Main Road,
Virudhunagar – 626 001.

... Petitioner

Vs.

1.Tamil Nadu Electricity Ombudsman,
No/19-A, Rukmini Lakshmipathy Salai,
(Marshal Road), Egmore,
Chennai-600 008.

2.Consumer Grievance Redressal Forum (CGRF),
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO),
Virudhunagar Electricity Distribution Circle,
Virudhunagar- 626 001.

3.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO),
Virudhunagar Electricity Distribution
Circle (VREDC),
Virudhunagar- 626 001.



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4. The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO),
Virudhunagar- 626 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, calling for the records pertaining to the impugned order passed by the 3rd respondent in Lr.No. SE/VREDC/VDR/AO/REV/AS/ASST./F./D.No.882/2016, dated 15.06.2017 and the impugned order passed by the 2nd respondent in Lr.No.SE/VREDC/VDR/AEE/DEV/TA/F.CGRF/D.No.1390/2018 in Petition No. 04/2018-19, dated 22.05.2019 and the impugned passed by the 1st respondent in A.P.No. 1390/2018 in petition No. 04/2018-19, dated 22.05.2019 and the impugned passed by the 1st respondent in A.P.No.39 of 2019 D.No.1155, dated 29.10.2019, to quash the same and consequently, to direct the respondents 3 and 4 to refund Rs.15,06,220/- being the petitioner's deposits and interest accrued as on 01.04.2012 with interest at the rate of 18% from 01.04.2012 to the date of payment within a time frame that may be fixed by this Court.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.S.Deenadhayalan

ORDER

This writ petition is filed challenging the impugned order, dated 29.10.2019.



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2. On perusing the impugned order, dated 29.10.2019, it is seen that Ombudsman has declined to entertain the appeal filed in A.P.No.39 of 2019 of petitioner, since the petitioner has preferred an alternative remedy by filing a writ petition in W.P.(MD)No.1214 of 2014 and the relevant portion of the impugned order, dated 29.10.2019, is extracted hereunder:

“7.11.As per my findings in para 7.9, the WP (MD) 1214 of 2014 filed by the appellant on the same subject matter is pending in the Hon'ble High court, Madurai Bench. Therefore, I am of the considered view that the Electricity Ombudsman cannot entertain the appeal petition No. 39 of 2019 for passing an order as per regulation 17(4)(d) of the Regulations for CGRF and Electricity Ombudsman.”

It is seen from the record that as on date the W.P.(MD)No.1214 of 2014 was withdrawn by the petitioner and the writ petition was dismissed as withdrawn.

3. Therefore, the learned Standing Counsel appearing for the respondents submitted that the case may be remitted back to the Ombudsman to reconsider. However, the learned Counsel appearing for the petitioner submitted that rather than remitting it back to the Ombudsman, the case may be heard on merits,



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since the Consumer Grievance Committee as well as the Ombudsman has held the case on merits in favour of the petitioner.

4. The brief facts of the case are that the petitioner had approached the respondents to disconnect the service connection on 10.06.2012, after paying the current consumption bill for May 2012. But the respondents instead of disconnecting and dismantling the service connection had deducted the current consumption bills for the subsequent months from the security deposit.

5. It is seen from the records that there were audit objections regarding peak hour penalty. Hence the respondents could not complete the accounts, in turn could not disconnect the service connection. The provisions states that there should not be any arrears before disconnecting the service connection. In such circumstances, the petitioner sought for changing the HT service connection to LT service connection, so that the petitioner may not be saddled with the monthly maintenance charges, in turn the respondents may not deduct huge amount from the security deposit. Since the respondents had not changed the service connection, the petitioner had approached the High Court in W.P.



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(MD)No.1214 of 2014 praying to change the service connection from HT to LT, disconnect the HT service connection and also challenged the excess levy of charges. Now by citing the pendency of the aforesaid writ petition, the Ombudsman had closed the appeal. But the said writ petition was dismissed as withdrawn. Now the petitioner is without any relief from Ombudsman and from High Court. Therefore, in order to render overall justice, the present writ petition is entertained rather than remitting the case before Ombudsman.

6. The respondents is right that without the clearance of audit objections regarding peak hour penalty, the disconnection cannot be entertained. But the respondents cannot endlessly keep the issue pending. The respondents ought to have retained the security deposit equivalent to the audit objections for peak hour penalty and ought to have disconnected the service connection. When the same was not considered, the petitioner had rightly moved an application to the respondents atleast to change the service connection from HT to LT and the respondents ought to have entertained the application and changed the service from HT to LT so that the huge deduction for the monthly maintenance from the security deposit would have been avoided. The respondents had not entertained



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the same, but deducted the monthly maintenance from the security deposit.

Exactly for this reason only the Consumer Grievance Redressal Forum had held that the action of the respondent is not correct and highly regrettable. The relevant portion is extracted hereunder:

*“6.4 From the records, it is found that the petitioner had not paid the CC bills from the month of May 2012 onwards. As per the prevailing orders of TANGEDCO, the respondent had to give instructions to disconnect the HT SC No.274 on non-payment CC bills. Instead, the respondent adjusted the CC bills against the excess CCD available with the petitioner's account for about two years (i.e.) from 05/2012 to 02/2014. **This action of the respondent is not correct and highly regrettable.**”*

7. This Court of the considered opinion that the respondents ought to have retained the security deposit equivalent to the audit objections for peak hour penalty and ought to have disconnected the service connection. Atleast the respondents ought to have changed the service connection from HT to LT so that the huge deduction for the monthly maintenance from the security deposit could have been avoided. When there are arrears regarding peak hour penalty, the respondents may be right in not entertaining the application for disconnection but at the same time the respondents cannot decline to change the



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service connection from HT to LT. If the service connection was changed into LT service connection, the monthly maintenance amount would have been considerable reduced. Since it was continued as HT service connection, huge amount for monthly maintenance charges were deducted from the security deposit and the same is totally unfair, arbitrary.

8. The petitioner is claiming that the petitioner had submitted an application, dated 10.06.2012 to disconnect the service connection along with current consumption charges for the month of May 2012. But the respondents submitted that they had received the request for dismantling on 03.06.2013. This Court is of the considered opinion that if the petitioner had submitted an application on 10.06.2012, the failed to do follow up action. Therefore, the petitioner is also at fault for not approaching the authorities for follow up action in time. The respondents expressed difficulties to close the accounts, since the petitioner ought to pay peak hour penalty. If the accounts are closed without such collecting of arrears, subsequently the said arrears cannot be collected from the petitioner. Be that it may, the respondents ought to have



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change the HT service to LT service. If that has been carried out, the petitioner might have escaped from the huge deduction of monthly maintenance charges for HT service.

9. Therefore, as stated supra the petitioner is at fault to some extent and the respondents are also at fault. Therefore, in the interest of justice, the petitioner is liable to pay the monthly maintenance from 10.06.2012 to 31.12.2012. However, the petitioner is not liable to pay from 01.01.2013 to February 2014. Therefore, the respondents are directed to re-work the amount and refund the balance amount which was deducted for the period from 01.01.2013 to February 2014. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

10. With the above said observation and directions, the writ petition is disposed of. No costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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S.SRIMATHY, J.

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