



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.27750 of 2024
and WMP No.30260 of 2024

A.Kesavan

... Petitioner

Vs.

1.The Chairman

TANGEDCO

No.144, N.P.K.R.R. Maligai,
Anna Salai, Chennai 600 002

2. The Chief Engineer, personnel,

TANGEDCO, Administrative Branch

N.P.K.R.R.Maligai,

No.144, Annasalai, Chennai 600 002.

3. The Chief Engineer,

Distribution, TANGEDCO,

948, EVN Road, Erode.

4. The Superintending Engineer,

SEDC / Salem,

TANGEDCO

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the



proceedings of the 1st respondent and signed on his behalf by the 2nd respondent, dated 13.09.2019 and quash the same as illegal and further direct the 1st respondent and signed on his behalf by the 2nd respondent dated 13.09.2019 and quash the same as illegal and further direct the 1st respondent to condone the delay of 7 months and 16 days in preferring the departmental appeal within the 1st respondent and consider my appeal on merits.

For Petitioner : Mr. P.Magesh

For Respondents : Mr.K.Rajkumar

Standing counsel for R1 to R4

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 13.09.2019 and for a consequential direction to the respondents to entertain the appeal which was dismissed on the ground that it was filed with a delay of seven months and 16 days.

2. Heard Mr. P.Magesh, learned counsel for the petitioner and Mr.K.Rajkumar, learned Standing counsel for Respondents 1 to 4.

3. The petitioner had earlier filed WP No.1705 of 2024 wherein the petitioner did not choose to challenge the order dated 13.09.2019 passed by the 2nd respondent. The writ petition was filed seeking for the relief of Mandamus



directing the 2nd respondent to condone the delay of 7 months and 16 days in preferring the appeal. This writ petition was dismissed as withdrawn by order dated 30.01.2024. Thereafter, the present writ petition has been filed on the same cause of action with the only change that the petitioner has chosen to challenge the order passed by the 2nd respondent dated 13.09.2019.

4. In the considered view of this Court, when the petitioner filed the earlier writ petition in WP No.1705 of 2024, he had an opportunity to challenge the order passed by the 2nd respondent dated 13.09.2019. For reasons best known to the petitioner, the said order was not put to challenge. The petitioner while withdrawing the writ petition should have atleast sought for liberty to file a fresh writ petition on the same cause of action by challenging the order passed by the 2nd respondent dated 13.09.2019. Such liberty was also not sought for. In view of the same, the present writ petition filed before this Court is hit by the principles of constructive *res judicata*. This principle is equally applicable even to writ proceedings.



5. In view of the above, this Court is not inclined to entertain the present writ petition. However, it is left open to the petitioner to seek for the modification / review of the earlier order passed by this Court on 30.01.2024 by getting the liberty to challenge the order passed by the 2nd respondent dated 13.09.2019. Except giving this clarity, no further orders can be passed in this writ petition.

6. This writ petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

24.09.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
rka

N. ANAND VENKATESH, J.

rka



To

1. The Chairman

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