



W.P.(MD)No.6993 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on : 16.02.2024

Pronounced on : 13.05.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6993 of 2020
and
W.M.P.(MD)Nos.6415 and 6416 of 2024

M.Lakshmi

... Petitioner

Vs.

1.Tamil Nadu Generation and Distribution
Corporation Limited,
Represented Through Superintending Engineer,
Madurai Electricity Distribution Circle,
K.Pudur, Madurai.

2.Assistant Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited,
T.Kallupatti,
Madurai District -625 702.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling the records pertaining to the order dated 26.05.2020 in LR Number-AEE/D/D.KLPT/F.HTSC. 105/D.No.066/20-21 issued by the 2nd respondent



W.P(MD)No.6993 of 2020

and quash the same as illegal, time barred and without jurisdiction, consequently directing the respondents to drop all further proceedings pertaining to the impugned notice dated 29.05.2020.

For Petitioner : Mr.R.Aravindan

For Respondents : Mr.S.Deenadhayalan,
Standing Counsel.

ORDER

Heard both sides.

2.The petitioner challenges the impugned demand made by TANGEDCO primarily on the ground that it is barred by limitation.

3.M/s.Srinivasa Industries, T.Kunnathur is a partnership firm. The petitioner and her husband were its partners. It enjoyed electricity service connection bearing HT.SC.No.105. The unit was engaged in manufacturing calcium carbide. Dispute arose between the industry and TNEB as regards the entitlement of concessional rate of tariff. The industry contended that it was entitled to concession for five year as the industry was located in a backward area. The industry filed W.P.No.6912 of 1992 and succeeded before the learned



W.P(MD)No.6993 of 2020

Single Judge. Challenging the order dated 28.03.1995 made in the writ petition, TNEB filed W.A.No.843 of 1997. The order of the learned Single Judge was reversed by the Hon'ble Division Bench on 23.06.1999. The decision of the Hon'ble Division Bench is reported in AIR 1999 Madras 460.

4.Even while allowing the writ appeal, the industry was directed to make a representation before the Government and the Government was called upon to consider the case favourably, if similarly placed consumers had been granted benefit.

5.I wanted to know if any such representation was filed in terms of the direction given by the Hon'ble Division Bench and what was the outcome. The learned counsel for the petitioner states that the industry was actually run by the petitioner's husband and that he passed away subsequently and the petitioner is unable to gather the relevant particulars.

6.The impugned demand is for the period from June 1994 to March 1997. The principal amount comes to Rs.94,66,863/-. It has swollen to a huge sum of Rs.6,48,80,859/- on account of addition of the belated charges. The petitioner's share has been quantified as Rs.3,24,50,295/-. The learned counsel for the



W.P(MD)No.6993 of 2020

petitioner relied on the order dated 04.08.2020 made in W.P.(MD)No.5511 of 2020 (S.Vijayalakshmi Vs. The Superintending Engineer, TANGEDCO, Dindigul). I had held in the said order that TANGEDCO being a state instrumentality and public utility must behave in a fair and reasonable manner and cannot take their own sweet time to initiate proceedings. In that case, the original cause of action arose twenty years back. I held that if the statute does not prescribe any period of limitation, the power must be exercised within reasonable period. I relied on the decision of the Hon'ble Supreme Court reported in **(2015) 3 SCC 695 (Joint Collector, Ranga Reddy District Vs. D.Narsing Rao)**.

7.I am unable to follow the said decision in this case for the simple reason that the industry had entangled TANGEDCO in litigation after litigation. O.S.Nos.292, 294, 622 and 702 of 1994 were instituted. The suits were dismissed on 03.02.2001. The industry filed A.S.Nos.54, 59 and 60 of 2002. The appeals were dismissed for default on 03.09.2004. There was delay of 2698 days. IAs were filed to condone the same. The IAs were dismissed on 24.09.2014. The industry had filed C.R.P.(MD)Nos.2531 to 2536 of 2014. The civil revision petitions were dismissed on 28.01.2022. In the meanwhile, O.S.Nos.279 and 280 of 2015 were filed. They were re-numbered as



W.P(MD)No.6993 of 2020

O.S.Nos.640 and 402 of 2017. Both the suits were dismissed for default on 27.06.2019 and till date, steps have not been taken to have them restored. In the impugned order as well as in the counter affidavit filed by the respondents, all these aspects have been set out. It is not as if TANGEDCO is taking steps for the first time to recover the petitioner's dues. Far from it, steps were taken more than thirty years ago. On account of institution of writ proceedings by the industry, the hands of TANGEDCO were tied. On account of institution of many suits and civil revision petitions, recovery could not be effected. Now that all the proceedings have ended against the industry, the demand has been raised. It is not as if it is being raised for the first time. It is reiteration of what was already notified. Admittedly, exorbitant nature of demand is on account of accumulation of belated charges. The petitioner having lost before the Civil Court cannot now change horse midstream. I do not find any ground to interfere. This is a matter in which there must be some kind of settlement arrived at between the parties. The petitioner can approach the board with a request to waive the belated charges. The board can also consider giving quietus to the issue by accepting the payment of principal sum.

8. With this liberty to the petitioner to approach the respondent board for waiving the belated charges and for giving quietus to the issue on payment of



W.P(MD)No.6993 of 2020

the principal amount of Rs.94,66,863/- and with direction to the board of TANGEDCO to consider the petitioner's request, this writ petition is dismissed.

No costs. Consequently, connected miscellaneous petitions are closed.

13.05.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias



WEB COPY



W.P(MD)No.6993 of 2020



WEB COPY



W.P(MD)No.6993 of 2020

G.R.SWAMINATHAN, J.

ias

**Pre-Delivery Order in
W.P(MD)No.6993 of 2020**

13.05.2024