



W.P.No.29703 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.29703 of 2014

and

M.P.No.1 of 2014

M.Manogaran,
S/o.E.Manisamy

... Petitioner

Vs.

The Superintending Engineer,
Distribution Circle,
Tamil Nadu Electricity Generation and
Distribution Corporation Limited,
Vellore – 632 006.

... Respondent

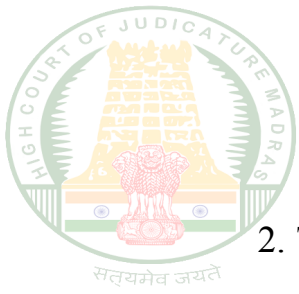
Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent relating to Memo கு.எண்.29091/நிபி4/உ./2/2014 dated 27.10.2014, to quash the same.

For Petitioner : Mr.M.Ravi

For Respondent : No appearance

ORDER

There is no representation on behalf of the respondent. No counter affidavit has been filed.



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2. This case was listed “for admission” on 14.11.2014 and thereafter it is

WEB COPY came up for hearing today.

3. In this Writ Petition, the petitioner has challenged the Impugned Memo dated 27.10.2024 bearing Ref.கு.எண்.29091/நிபி4/உ./2/2014 dated 27.10.2014, seeking to recover a sum of Rs.1,05,841/- in 10 monthly installments of Rs.11,000/- each from October 2014 the Subsistence Allowance payable to the petitioner towards overpayment of Dearness Allowance for the period between 24.09.2010 and September 2012.

4. The facts of the case as stated in the affidavit reveal that the petitioner while serving as Junior Engineer (Grade-I) in Sathuvachari West, Vellore in the respondent Tamil Nadu Electricity Generation and Distribution Corporation Limited, was placed under deemed suspension on 24.09.2010 on the ground that he was arrested by the Vigilance and Anti-Corruption Unit, Vellore on 23.09.2010.

5. He was kept under prolonged suspension from 24.09.2010. As per Regulation 56(1) of the Tamil Nadu Electricity Board (TNEB) Service



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Regulations and Leave Regulations Manual, the petitioner was paid

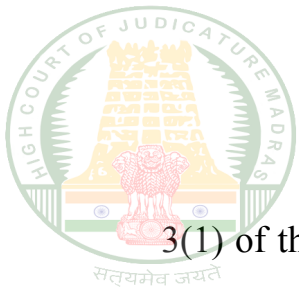
Subsistence Allowance at 50% of the basic pay and the allowances for the 1st six months of suspension and from 23.03.2011 the petitioner was paid 75% of the basic pay and allowances till the date of filing of the writ petition.

6. However, up to 30.09.2012, the petitioner was paid 100% of the Dearness Allowance which was reduced from October 2012 to 75% of the basic pay. This was without notice to the petitioner.

7. The case of the petitioner is that the aforesaid recovery is contrary to Section 3(1) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 and that the petitioner was also not given any prior notice before the Impugned Memo / Recovery Order was passed.

8. The order of recovery without notice to the petitioner is *prima facie* in violation of principles of natural justice.

9. Since the recovery would have been made, I am of the view, *post facto* hearing can be given to the petitioner by the respondent in the light of Section



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3(1) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981. Section

WEB 3(1) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 reads as

under:-

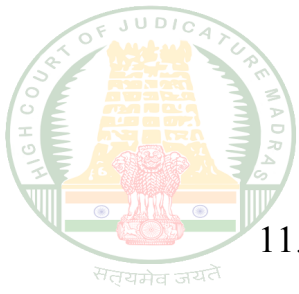
“3. Payment of Subsistence Allowance:

(1) An employee who is placed under suspension shall, during the period of such suspension, be entitled to receive payment from the employer as subsistence allowance, an amount equal to fifty per centum of the wages which the employee was drawing immediately before suspension, for the first ninety days reckoned from the date of such suspension.

Provided that where the period of suspension exceeds ninety days but does not exceed one-hundred and eighty days, the employee shall be entitled to receive, after the said period of ninety days, a subsistence allowance equal to seventy-five per centum of the wages which the employee was drawing immediately before his suspension.

Provided also that where the enquiry or criminal proceeding is prolonged beyond the period of ninety days for reasons directly attributable to the employee, the subsistence allowance shall, for the period exceeding ninety days, be reduced to fifty per centum of the wages, which the employee was drawing immediately before his suspension.”

10. Under these circumstances, the case is remitted back to the respondent to pass a fresh order on merits.



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11. Refund of the amount will be subject to the decision to be taken by

the respondent.

12. In case the petitioner is entitled to any refund, the amount shall be refunded forthwith to the petitioner.

13. This exercise shall be carried out by the respondent within a period of 3 months from the date of receipt of a copy of this order.

14. This Writ Petition stands disposed of with the above observations.
No costs. Connected Miscellaneous Petition is closed.

05.02.2025

Neutral Citation : Yes / No

arb

To

The Superintending Engineer,
Distribution Circle,
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
Vellore – 632 006.



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