

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.56/2023

Er. Swapan Das, S/O. Late Sadhan Chandra Das, Resident of:- FLAT No. 3/D, M.M. Dhar Apartment, Joynagar Road No.3, P.O.-Agartala, P.S.-West Agartala, District:-West Tripura, PIN-799001.

.....Appellant(s).

V E R S U S

1. The Tripura State Electricity Corporation Limited, (To be represented by its Managing Director), North Banamalipur, Bidyut Bhawan, P.O.-Agartala, P.S.-East Agartala, West Tripura, Pin-799001.

2. The Managing Director, Tripura State Electricity Corporation Limited, North Banamalipur, Bidyut Bhawan, P.O.-Agartala, P.S.-East Agartala, West Tripura, Pin-799001.

3. The Secretary, Government of Tripura, Power Department, Civil Secretariat, P.O. & P.S.-N.C.C., Agartala, West Tripura, Pin-799010.

4. The Addl. General Manager, (Generation Circle), TPGL, North Banamalipur, Agartala, West Tripura, PIN-799001.

.....Respondent(s).

For Appellant(s) : Mr. Saugat Datta, Advocate,
Ms. Madhurima Chanda, Advocate.

For Respondent(s) : Mr. Nepal Majumder, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

Order

06/07/2023

Heard Mr. Saugat Datta, learned counsel appearing for the appellant and Mr. Nepal Majumder, learned counsel appearing for the

respondents-Tripura State Electricity Corporation Limited (TSECL, for short).

2. The learned Single Judge refused to interfere in the order of transfer vide judgment and order dated 02.05.2023, *inter alia*, holding as under:

"5. As revealed from the evidence on record, the transfer of the petitioner herein arose out of the Administrative reasons of the concerned Department/Organization and the same cannot be interfered with under Article 226 of the Constitution of India as the same is the settled principle of law. No pleadings have been made in the affidavit indicating that the transfer is attributed to any malafide upon the respondent authorities and they have transferred the petitioner with ill motives.

6. Accordingly, this present writ petition is dismissed as being devoid of merit. Stay if any stands vacated. Pending application(s), if any also stands closed."

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3. Petitioner who is working presently as Deputy General Manager was posted on 06.08.2022 at Baramura Gas Thermal Power Station on transfer from Gamaitilla, Teliamura Sub-Division where he joined on 14.08.2022. He got aggrieved on transfer from Baramura on 26.12.2022 to Electrical Circle, Belonia, South Tripura just after 4(four) months. Petitioner

pleaded humanitarian grounds of death of his father and frequent transfer within a span of 4(four) months to seek intervention by this Court which has been declined. Consequent upon his impugned transfer order dated 26.12.2022, the petitioner has joined and is working on the said post. Since a plea was taken by the petitioner that he has been transferred on three occasions in the last year, the respondents were asked to justify by filing counter affidavit since the writ petition was disposed of without any counter affidavit on record.

4. Respondents No.1, 2 and 4 have filed a counter affidavit pursuant to the order dated 01.06.2023. A specific plea has been taken in the counter affidavit that the transfer order dated 16.12.2022 was issued for administrative reasons of the TSECL along with 12 others for the interest of the public. There was no *mala fide* intention of the respondents. It was issued to implement project for modernization and reliability improvement of Power System and RDSS Scheme which is funded by the Asian Development Bank (ADB). To implement such works, TSECL has posted an Official in the rank of Deputy General Manager as Nodal Officer in the Office of the Additional General Manager in each district of the State for smooth implementation and monitoring of project related activities.

5. Further averments have been made that the petitioner who was working in the capacity as Deputy General Manager will act as Nodal Officer to look after the works related to ADB funded scheme for modernization and reliability improvement of Power System in entire South Tripura District. He is also to look after Revamped Reforms Link based Distribution System and to bring all the consumers throughout the entire South District under Smart Metering System. This transfer is, therefore, made in the interest of public service for smooth implementation and monitoring of project related activities in South Tripura District and not to harass him.

6. It is further stated that petitioner did make a representation on 27.12.2022 for stay of transfer but was asked to resume duty in the new place of posting immediately without any further communication by letter dated 16.01.2023. The Managing Director, TSECL directed all the Controlling Officers and further instructed them to ensure compliance of this order within three days, failing which they shall be treated as stand released. The DDOs were also directed to send their Service Books and Last Pay Certificates (LPCs) to the respective DDO Office on expiry of the date as mentioned in the office order.

7. Further averments have been made at paragraph-14 of the counter affidavit that after writ petition was dismissed on 02.05.2023, petitioner has been released on 20.05.2023 and his service book along with LPC has been transmitted to the Office of the Additional General Manager, TSECL, Belonia Electric Circle, Belonia, South Tripura. The office order dated 19.05.2023 was issued regarding sanction of leave. Further averments have been made that petitioner has been making application for extension/sanction of leave to the AGM, Belonia Electrical Circle and not functioning in his capacity as DGM.

8. Learned counsel for the respondents-TSECL, submits that the impugned order does not suffer from any infirmity as there are no *mala fides* in the transfer order. Petitioner has also not impleaded any party by name to allege acts of *mala fide* against him. Since the transfer is made in the administrative exigency and in public interest, no interference should be made.

9. On consideration of rival submissions of the parties and the stand of the respondents brought on record, we are satisfied that the impugned order of transfer does not suffer from any malice in law or malice

on fact and that it has been done in administrative exigency to ensure effective and expeditious implementation of the project for modernization and reliability improvement of Power System and RDSS Scheme in Belonia District. As such, the matter does not require any interference in view of the settled principles relating to judicial review in matters of transfer.

10. The instant appeal is accordingly dismissed.
Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ

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Date: 2023.07.07
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