

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26-04-2016

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

Writ Petition No.3750 of 2015

D. Manivannan

.. Petitioner

Vs.

1. Tamil Nadu Electricity Generation and Distribution Corporation Ltd., represented by its Chairman No.144, Anna Salai Chennai - 600 002
2. The Chief Engineer, Personnel Tamil Nadu Electricity Generation and Distribution Corporation Ltd., No.144, Anna Salai Chennai - 600 002
3. The Chief Engineer Distribution Erode Region Tamil Nadu Electricity Generation and Distribution Corporation Ltd., No.948, E.V.N. Road, Erode - 9
4. The Superintending Engineer Salem Electricity Distribution Circle Tamil Nadu Electricity Generation and Distribution Corporation Ltd., Salem - 14
5. The Executive Engineer Operation & Maintenance, Town Tamil Nadu Electricity Generation and Distribution Corporation Ltd., Salem - 1.

. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari to call for the records of the 3rd respondent in respect of the impugned order of transfer has been passed vide Memo No.012429/1255/Adm.1/A1/2014-I dt 9.7.2014 and quash the same.

For petitioner :: Mr. V. Raghavachari

For respondents :: Mr. P.R. Dilip Kumar

ORDER

By consent, the main writ petition itself is taken up final hearing.

2. The petitioner herein was promoted as an Assistant Executive Engineer and posted at Vellakoil, O&M Sub-Division Officer. Thereafter, on his request, the second respondent issued orders of transfer posting him at Ponnammampet, Upgraded Section.

3. The respondents found that the petitioner's relationship with the consumer was not cordial from the point of view of administration. Thus, based upon a report submitted in the year 2012, he was duly transferred by the impugned order from Deviakurichi, Salem Distribution Circle to Nethimedu against the existing vacancy. Challenging the said order, the present writ petition is filed.

4. The learned counsel for the petitioner submitted that the order is punitive in nature. The communication of the Chief Engineer and the Superintending Engineer also sent on the same date i.e., 07-01-2012, would indicate the performance of the petitioner, which in turn resulted in the passing of the impugned order. Therefore, the order impugned cannot be sustained without conducting an enquiry.

5. The learned counsel for the respondents submitted that the order impugned is not punitive and therefore, there is no question of not following the procedure. It was based on the *prima facie* material purely from the point of view of the administration. Therefore, no interference is required, more so, when there is no dispute on the jurisdiction of the authority, who passed the same and exercised it.

6. As rightly submitted by the learned counsel for the respondents, a perusal of the order impugned does not indicate that it was passed as a punitive measure. On the other hand, it was passed keeping in view of the administration of the Board. Certainly such an order cannot be termed as a punitive one. The two communications relied upon by the learned counsel for the petitioner were not open to public domain. They were only departmental communications between the authorities. Even a perusal of the said communication, this Court cannot term them

as punitive in nature. Under the above circumstances, there is no necessity for conducting the enquiry. In other words, these communications have been sent keeping in mind the efficiency of the administration alone. These observations made therein are to be understood and seen in their own context. These observations cannot be put against the petitioner for any other purpose, especially, when it has resulted in an administrative action and to transfer. These observations also cannot stand in the way of the respondent placing the petitioner in sensitive postings, in future, moreso, when the petitioner has not been heard.

7. With the above said observations and clarifications, the writ petition stands disposed of giving liberty to the petitioner to join the transferred place at the earliest.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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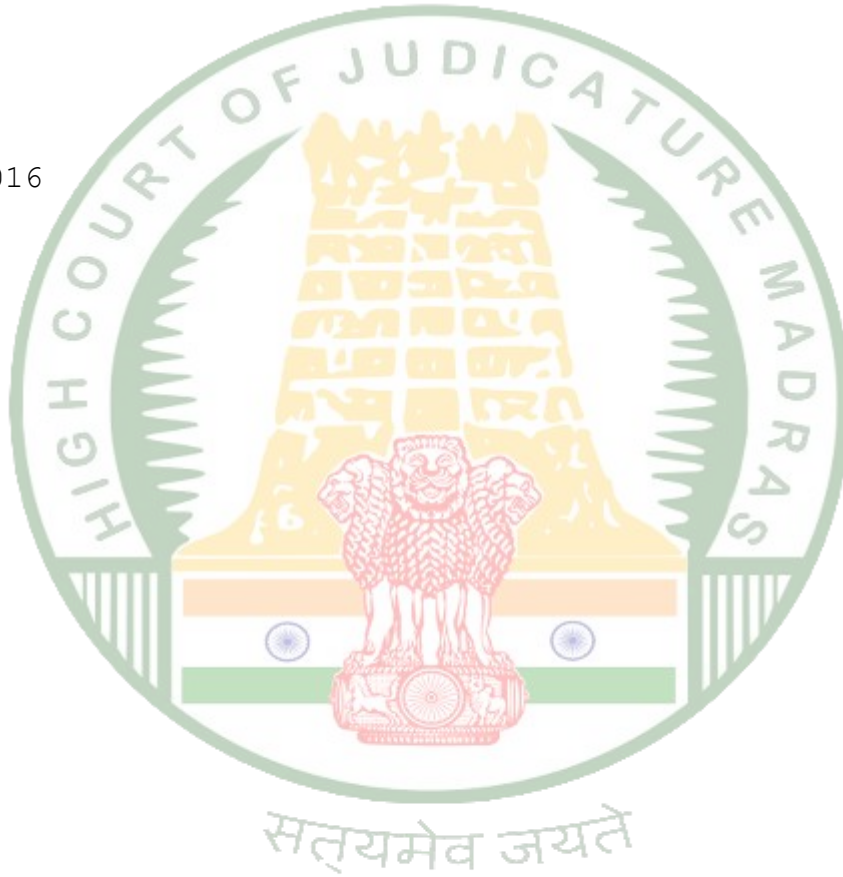
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Operation & Maintenance, Town
Tamil Nadu Electricity Generation
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Salem - 1.

+1 cc to Mr.V.Raghavachari Advocate sr.26171/16
+1 cc to Mr.P.R.Dhilip Kumar Advocate sr.26403/16

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