

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2016

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.29533 of 2016
and
W.M.P. Nos. 25550 & 25551 of 2016

P.Premkumar

.. Petitioner

Versus

The Executive Director RS (SR)
Indian Oil Corporation Limited
(Marketing Division)
Southern Region No.139,
Uttamar Gandhi Salai
Nungambakkam, Chennai 600 034.

.. Respondent

Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the issue of the impugned order No.P/1161/15734/93504 dated 28.07.2016 passed by the respondent and quash the same.

For Petitioner : Mr. Xavier Arul Raj, Senior Counsel
for Mr. Mutharasu

ORDER

This Writ Petition has been filed challenging the order dated 28.07.2016 of the respondent, in and by which, the petitioner who was working as Deputy Manager (Aviation) in Chennai has been transferred and posted as Deputy Manager (CIP), Madhavaram (Engineering Department).

2. According to the petitioner, on 04.08.1983, he joined as Typist in the Indian Oil Corporation Ltd at Salem. He worked for 15 years at three places viz., Salem, Tuticorin and Coimbatore. Subsequently, he was promoted as Operations Officer (LPG) in the year 1998 and transferred to Salem Bottling Plant and thereafter, promoted as Deputy Manager on 30.05.2011 and posted at Bangalore. As he has been suffering from Bilateral Arthritis and back pain he was taking treatment for such ailment. On 12.05.2014, the petitioner joined as Deputy Manager at Chennai and posted in Aviation Fuel Station.

While working as such, the petitioner submitted representations dated 24.11.2014 and 05.12.2014 to the respondent seeking to transfer from Aviation Department to some other department. Since the respondent did not consider such a request made by the petitioner, he filed a writ petition in W.P. No.1689 of 2015 before this Court and the said writ petition is pending till date. During the pendency of the writ petition, by the order dated 28.07.2016, he was transferred to Madhavaram unit of the Corporation as mentioned above.

3. The learned Senior counsel appearing for the petitioner has submitted during the 19 years of service rendered by the petitioner, he was subjected to transfer to 8 locations and he served with utmost care, devotion and attention wherever he was posted. While the petitioner was working at Chennai from 12.05.2014, he sought for transfer from Aviation Department on medical grounds. Instead of considering such genuine and bonafide request, the respondent passed the impugned order of transfer transferring him to Madhavaram which is situate in the outskirts of the City. By reason of such transfer, the petitioner, who is already suffering from severe back pain, was made to travel 32 kms from his residence to reach his office daily. According to the learned Senior counsel for the petitioner, the Transfer Policy-2013 (TP-2013) Ref: DP/7/4 dated 31.12.2013 governing the employees of the respondent corporation states that the tenure of an employee would be four years in one grade with minimum period being three years and maximum period being ten years or two grades, whichever is earlier, at a location/cluster of cities. Applying such policy, at least, the impugned order of transfer is not justifiable especially when the petitioner was working at Chennai from 12.05.2014. Therefore, the learned Senior counsel for the petitioner prays for allowing the writ petition as prayed for.

4. Heard the submissions made by the learned Senior counsel for the petitioner and perused the materials placed on record.

5. By reason of the impugned order, the petitioner was only transferred from Chennai to Madhavaram, within the City of Chennai. As could be seen from the cause title in the affidavit filed by the petitioner, he is residing at Pallavaram, Chennai - 600 043. Even according to the petitioner, the distance between his residence and Madharavaram, to which he was transferred, is only 32 kilometers. Further, the petitioner was transferred from one department to the other within the City of Chennai. Further, transfer of an employee from one department to another is the prerogative of the employer and this Court cannot interfere with the same, unless it is shown that such order of transfer is passed as a measure of punishment or due to a malafide intention on the part of the employer. In the absence of the

above allegations, I hesitate to interfere with the impugned order of transfer. Accordingly, this Writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kkd/rsh

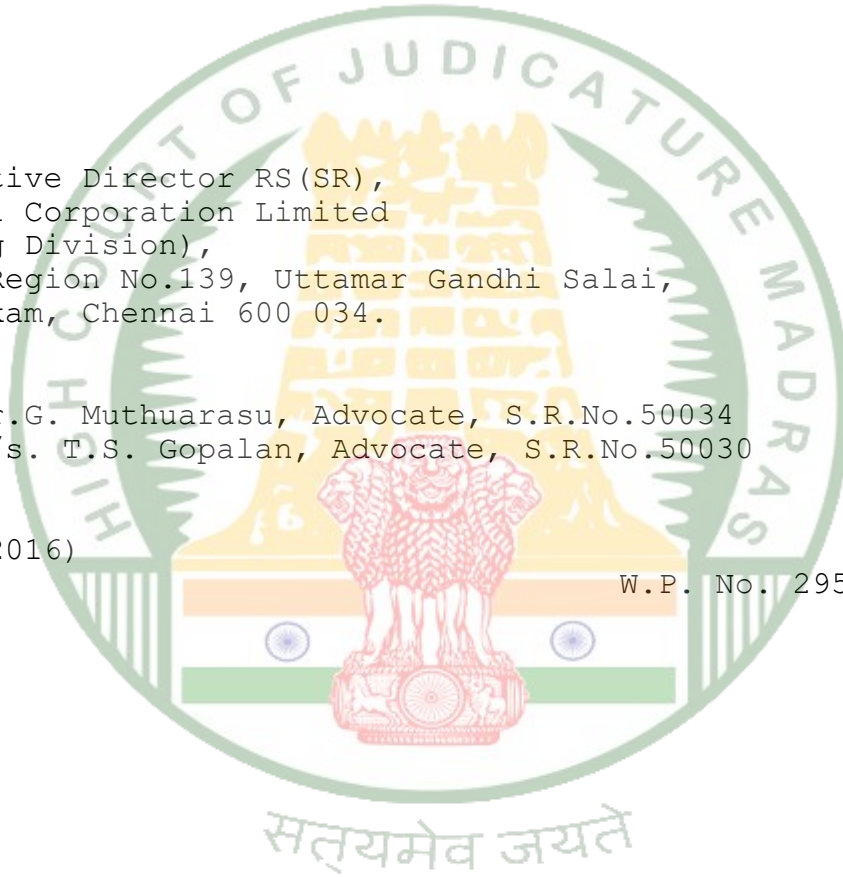
To

The Executive Director RS(SR),
Indian Oil Corporation Limited
(Marketing Division),
Southern Region No.139, Uttamar Gandhi Salai,
Nungambakkam, Chennai 600 034.

+1cc to Mr.G. Muthuarasu, Advocate, S.R.No.50034
+1cc to M/s. T.S. Gopalan, Advocate, S.R.No.50030

MV(CO)
EU(04/10/2016)

W.P. No. 29533 of 2016



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