

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.41012 of 2015
and
W.M.P.Nos.1 & 2 of 2015

V. Deva Sagayam ...Petitioner

Vs.

1. The Superintendent Engineer,
Office of Superintendent Engineer, Metro,
Tamil Nadu Generation and
Distribution Corporation.
Coimbatore - 641 012.
2. The Executive Engineer,
Central Division (Metro)
Tamil Nadu Generation and
Distribution Corporation,
Coimbatore - 641 018.
3. The Assistant Executive Engineer,
Tatbad Section, Cross cut Road,
Tamil Nadu Generation and
Distribution Corporation,
Coimbatore - 641012.Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to Order of first respondent in KU.AA.No.679/NIPI 2/VU.1/KO.2/2015 dated 10.12.2015 and quash the same.

For Petitioner : Mr.A.Edwin Prabakar

For Respondents : Ms.Varalakshmi
Standing Counsel for Electricity Board

* * * * *
O R D E R

Heard Mr.A.Edwin Prabakar, learned counsel appearing for the petitioner and Ms.Varalakshmi, learned Standing Counsel appearing for the respondents.

2.The order of transfer issued against the writ petitioner by the first respondent in proceedings dated 10.12.2015 is under challenge in this writ petition.

3.The writ petitioner is working as a Line Inspector and transferred from Tatbad circle to Ondiputhur circle and both the places are in and around Coimbatore City. However, the learned counsel appearing for the writ petitioner made a submission that the order of transfer was challenged mainly on the ground that the same was issued by way of penalty. Disciplinary actions were initiated against the writ petitioner and on account of the initiation of disciplinary proceedings the order of transfer was issued against the writ petitioner. Thus, the transfer order was issued by way of penalty cannot be sustained by the respondent and the same is to be set aside.

4.Transfer is incidental to service, more so, the condition of service. The order of transfer can be challenged only on limited ground of jurisdiction or incompetency or allegation of mala fides are raised. However, in this case the ground raised against the order of transfer is that the same is punitive in nature and an administrative transfer cannot issued in view of punishment. However, the respondents have filed a counter stating that the order of transfer was administrative in nature and therefore, there is no infirmity in the impugned order of transfer.

5.However, it is stated that based on certain allegations disciplinary proceedings were initiated against the petitioner. This Court is able to find out that both the disciplinary proceedings and the order of transfer were issued simultaneously and that prompted the writ petitioner to file this writ petition attacking the order of transfer on the ground that it is punitive in nature. This Court at this point of time need not go into the details regarding the disciplinary proceedings initiated against the writ petitioner and it is for the competent authorities to proceed against the writ petitioner under the Discipline and Appeal Rules.

6.As far as the order of transfer is concerned, the writ petitioner has challenged the order of transfer in the year 2015 and he is continuing in the same station for the past about 2½ years after the issuance of the impugned order of transfer and even prior to the order of transfer he was working in the same station. Under these circumstances, the other grounds raised in this writ petition in respect of the transfer deserves no further consideration. However, in view of the fact that the impugned order of transfer was issued at the time of initiation of disciplinary proceedings and there is possibility of presumption that it was punitive in nature.

7. In this view of the matter, the impugned order passed by the respondents in proceedings dated 10.12.2015 is quashed and the writ petition stands partly allowed and the respondents are at liberty to issue any fresh administrative transfer in accordance with the rules in force. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Superintendent Engineer
Office of Superintendent Engineer, Metro,
Tamil Nadu Generation and
Distribution Corporation.
Coimbatore-641 012.
2. The Executive Engineer,
Central Division (Metro)
Tamil Nadu Generation and
Distribution Corporation,
Coimbatore-641 018.
3. The Assistant Executive Engineer,
Tatbad Section, Cross cut Road,
Tamil Nadu Generation and
Distribution Corporation,
Coimbatore-641012.

+2cc to Mr.A.Edwin Prabakar, Advocate sr.69945

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W.P.No.41012 of 2015

RSI (co)
ss (25/10/2017)

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