

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.34737 of 2016
and
Cont.P.No.2634 of 2016

W.P.No.34737 of 2016

N.Ravichandran ... Petitioner

Vs

1.The Chairman-cum-Managing Director,
Tamil Nadu Generation & Distribution
Corporation Limited,
144, Anna Salai,
Chennai - 2.

2.The Chief Engineer Personal,
Tamil Nadu Generation & Distribution
Corporation Limited,
144, Anna Salai,
Chennai - 2.

3.The Chief Engineer / Distribution,
Tamil Nadu Generation & Distribution
Corporation Limited,
Chennai Region/south/Chennai.

4.Kondalraj
R4 impleaded as per order
dated 15.12.2016 in WMP No.36897 of 2016

... Respondents

Contempt Petition No.2634 of 2016

N.Ravichandran

.. Petitioner

Vs.

Thiru A.V.Ravi,
Chief Engineer / Personnel,
TANGEDCO,
144, Anna Salai,
Chennai - 2.

.. Respondent

Prayer in W.P.No.34737 of 2016: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the second respondent relating to his memo No.081492/G.11/G.111/2016-1, dated 24.09.2016 and quash the same as illegal, arbitrary, without jurisdiction.

Prayer in Cont.P.No.2634/2016: Petition under Section 11 of the Contempt of Courts Act, 1971 praying to punish the respondent for willful disobedience of the common order passed in WMP.No.29929/2016 in W.P.No.34737/2016, dated 03.10.2016.

For petitioner : Mr.NGR.Prasad
for Mr.K.Balakrishnan

For Respondents : Mrs.R.Varalakshmi
in W.P.34737/16

O R D E R

By way of filing this writ petition, the petitioner seeks to quash the impugned proceedings dated 24.09.2016 of the second respondent / the Chief Engineer (Personnel), TANGEDCO, Chennai, in and by which, he was transferred from Mambakkam, Chengalpattu Electricity Distribution Circle, to Sunguvarchatram of the same distribution circle.

2. It is the contention of the learned counsel for the petitioner that the petitioner joined in the present place only on 11.02.2015 by transfer from Adayar, Chennai. However, within 1 ½ years, he was again transferred to Sunguvarchatram, Chengalpattu Electricity Distribution Circle, without any valid reason. It is further submitted that the present impugned transfer order has been passed on the basis of a complaint given by one Mr.Arunk Kumar, Advocate, who is also a member in Satta Panchayat Iyakkam. Therefore, it is contended, even if they have received any complaint, without conducting any enquiry, nor giving him an opportunity to explain his case, the impugned order of transfer ought not to have been issued. The very fact that he has been disturbed within 1 ½ years by transfer itself

shows that such transfer order is by way of punishment, therefore, on this score, the writ petition is liable to be set aside.

3. Continuing his argument, it is further stated that though the impugned order is dated as 24.09.2016, on the back side of the said order, it is written as 28.09.2016, therefore, it shows that it was forwarded to the individual only on 28.09.2016, hence, it is not open to the respondent to say in the counter affidavit that on 24.09.2016 itself, he was relieved and another person was posted in his place. It is further submitted that even after the order of stay granted by this Court on 03.10.2016, till now, they have not permitted him to join the duty and therefore, he has also filed a contempt in Contempt Petition No.2634 of 2016.

4. On the other hand, it is submitted by the learned standing counsel for the respondents that when the petitioner has been transferred from Madhavaram to Sunguvarchatram, both are within the Chengalpattu Electricity Distribution Circle, on administrative grounds against the existing vacancy, the contention of the learned counsel for the petitioner that the said transfer order has been passed only based on a complaint is wholly misconceived. Secondly, it is submitted that when the petitioner has been transferred within the Chengalpattu Electricity Distribution Circle and that the distance is only 30kms., he cannot complain that he has been put to grave prejudice on account of this impugned transfer order. Thirdly, relying heavily on the judgment of this Court in V.Balachandar and another v. the Chief Engineer (Personnel) and others (W.A.Nos.118 and 119 of 2016, dated 25.10.2016), it is contended that the petitioner cannot claim any indefeasible right to be posted in a particular place, therefore, when the Chief Engineer (Personnel), has decided to transfer him within the same circle, there cannot be any ground to interfere with the transfer order.

5. Heard the learned counsel appearing on either side.

6. It is trite law that transfer is an incident of service and an employee working on a transferable post cannot claim, as a matter of right, that he should be retained in a particular post or at a particular place. It is the choice of the employer to determine how long the service of an employee is required in a particular post or at a particular place. The order of transfer does not affect any legal rights of the employee and the Court or Tribunal cannot interfere with an order of transfer or posting, which is made in public interest or on administrative exigency. Therefore, the present impugned transfer passed transferring him from Mambakkam to Sunguvarchatram, both are within the Chengalpattu Electricity

Circle, on administrative grounds, cannot be questioned by him, that too when the transferred place is just only 30 kms. away from the present place of working. Thus, I do not see any mala-fide intention of the respondent in transferring him to Sunguvarchatram, as contended by the petitioner, warranting interference of the Court.

7. At this juncture, it is stated by the learned counsel for the petitioner that in view of non-joining of the petitioner in the transferred place by virtue of the interim stay granted by this Court, the respondent may be directed not to take any action against the petitioner. In reply, learned standing counsel for the respondents assured this Court that the department will not take any action against him for his non-joining in the transferred place. Recording the said submissions, this Court directs the petitioner to report in the transferred place as stated in the impugned order forthwith.

8. Thus, for the reasons stated above, the writ petition fails and the same is dismissed. Consequently, Cont.P.No.2634 of 2016 is closed. Connected miscellaneous petitions are also closed. No Costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- सत्यमेव जयते
- 1.The Chairman-cum-Managing Director,
Tamil Nadu Generation & Distribution
Corporation Limited,
144, Anna Salai,
Chennai - 2.
 - 2.The Chief Engineer Personal,
Tamil Nadu Generation & Distribution
Corporation Limited,
144, Anna Salai,
Chennai - 2.

WEB COPY

3.The Chief Engineer / Distribution,
Tamil Nadu Generation & Distribution
Corporation Limited,
Chennai Region/south/Chennai.

+1cc to Mr.R.Varalakshmi, Advocate Sr.19026

+1cc to Mr.K.Balakrishnan, Advocate Sr.18753 [04/04/2017]

W.P.No.34737 of 2016
and
Cont.P.No.2634 of 2016

mp1[co]
srg 3/4/2017



WEB COPY