



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.7786 of 2011

R.Paramathman

... Petitioner

Vs.

1.The Chairman,

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai - 600 002.

2.The Chief Engineer Personnel,

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai - 600 002.

3.The Superintending Engineer,

Pudukottai Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Pudukottai Post & District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from modify the accounts supervisor promotion panel issued by the second respondent in his letter No.007848/788/G27/G27/2010-1 dated 04.12.2010 and consequently, direct the respondents to implement the transfer guidelines issued by Board in Memo.No.007833/42/G43/G432/2009-1 dated 02.02.2009.

For Petitioner : Mr.M.Saravana Kumar

For Respondents : Mr.S.M.S.Johny Basha

O R D E R

The relief sought for in this writ petition is for a direction to forbear the respondents from modifying the accounts supervisor promotion panel issued by the second respondent in his letter dated 04.12.2010 and consequently, direct the respondents to implement the transfer guidelines issued by Board in Memo dated 02.02.2009.

2.The writ petitioner states that he was working as Accounts Supervisor in the office of the Executive Engineer, Aranthanki. The grievance of the writ petitioner is that the settlement entered between the management and the workman under Section 12(3) of the Industrial Disputes Act, 1947, has not been implemented properly.



3. The learned counsel for the writ petitioner states that the second respondent issued promotion in favour of certain incompetent persons and therefore, they are constrained to move the present writ petition.

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4. The life of a promotion panel is one year. This apart, the relief sought for in this writ petition to forbear the respondents from modifying the accounts supervisor promotion panel. The question of modification does not arise at all and such a relief sought for in this writ petition is premature. Admittedly, during the relevant point of time when the writ petition was filed, the panel was not modified. If at all any subsequent orders were passed, then the writ petitioner ought to have challenged the same. However, the relief sought for in this writ petition to forbear the respondents from modifying the accounts supervisor promotion panel cannot be granted, in view of the fact that modifying a panel or issuance of revised panel is an administrative prerogative and if the right of an employee is affected then only the cause of action would arise.

5. In the present writ petition, the writ petitioner has not established any cause of action for the purpose of considering his claim for issuance of any direction. Thus, the writ petitioner has failed to establish any legal right so as to consider the writ petition. In respect of the second portion of the prayer for a direction to the respondents to implement the transfer guidelines issued by Board in Memo dated 02.02.2009, cannot be considered.

6. Transfer guidelines are not statutory in nature. Such guidelines are issued for the purpose of considering the individual cases on merits. The guidelines or instructions issued in respect of posting or transfer can never be claimed as matter of right by the employees. Transfer is an incidental to service, more so, a condition of service. Certain instructions and guidelines are issued for the officials to follow at the time of considering the application for transfer or while effecting the administrative transfers. Thus, such guidelines / instructions can never be claimed as a matter of right by the employees. A transfer can be challenged if the same was issued without jurisdiction or on the ground of *male fide* or in violation of statutory rules in force. The writ petition against the transfer cannot be entertained in a routine manner and the judicial review in this regard is limited.

7. In view of the fact that the relief as such sought for in this writ petition is not in order and premature. The writ petitioner has not established any legal right to consider the relief as sought for in this writ petition.



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8. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

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Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Pudukottai Post & District.

+1cc to M/s.M.Saravana Kumar, Advocate, SR.No.58500

mm

RL/5C/3P/SV/MMS/SAR1/17/4/2018

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