

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.28627 of 2019
and
WMP.Nos.28389 & 28394 of 2019

R.M.Arulsamy

... Petitioner

Vs

1.The Chairman-cum-Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai-600002.

2.The Chief Engineer (Personnel)
TANGEDCO (Tamil Nadu Generation
and Distribution Corporation),
No.144, Anna Salai,
Chennai-600002.

3.The Chief Engineer / Distribution,
TANGEDCO (Tamil Nadu Generation
and Distribution Corporation),
Villupuram Region,
Villupuram.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ, order or direction in the nature of writ, calling for the records of second respondent in Memo No.034169/G.11/G.111/2019-1 dated 25.07.2019 and quash the same as illegal in so far as para 2 is concerned and consequently direct the respondents to transfer the petitioner to Kallakurichi / Town considering the application dated 05.07.2018 in the light of order dated 22.03.2019 passed in W.P.No.21149 of 2018.

For Petitioners : Mr.M.Ravi, Senior Counsel for
Mr.K.Sasindran,

For Respondents 1-3: Mr.M.Fakkir Mohideen

O R D E R

This Writ Petition has been filed seeking to call for the records of second respondent in Memo No.034169/G.11/G.111/2019-1 dated 25.07.2019 and quash the same as illegal in so far as para 2 is concerned and consequently direct the respondents to transfer the petitioner to Kallakurichi / Town considering the application dated 05.07.2018 in the light of order dated 22.03.2019 passed in W.P.No.21149 of 2018.

2. The petitioner was appointed as Technical Assistant on 19.09.2002 and he was promoted as Assistant Engineer on 24.12.2005 and thereafter as Assistant Executive Engineer on 21.04.2017. While he was working as Assistant Engineer at Town/Chinnasalem, all of a sudden, the second respondent passed an order dated 01.08.2018, transferring him from Town/Chinnasalem, Kallakurichi EDC to AEE/230 kV SS/Eachur, Thiruvannamalai EDC on adverse remarks.

3. According to the petitioner, the said transfer order was not on administrative reason but based on an alleged adverse remarks that he used his own chair and a charge memo was also issued which later was dropped after accepting his explanation. Challenging the said transfer order, the petitioner filed a Writ Petition in W.P.No.21149 of 2018 before this Court which came to be disposed of on 22.03.2019, directing the respondent therein to consider the representation of the petitioner and pass orders on merits. While so, the second respondent has passed the present transfer order dated 25.07.2019 even without reference to the order passed by this Court in the above said Writ Petition, transferred him to 230 kV SS / Ulundurpet in Kallakurichi Electricity Distribution Circle, against the existing vacancy. Aggrieved over the same, the petitioner has come forward with the present Writ Petition.

4. The learned counsel for the petitioner would submit that the petitioner is suffering from severe back pain and unable to work on his own and further he is taking care of his elderly mother and school going children and the second respondent without considering the order passed by this Court in the earlier Writ Petition, has once again transferred the petitioner and therefore the same cannot be sustained. Hence he seeks interference of this Court.

5. On the other hand, learned counsel for the respondent would submit that the transfer order has been issued by the Department based on serious allegations against the petitioner and in the interest of the administrative and its smooth functioning, the authority has considered it appropriate to transfer the petitioner. Accordingly, he was transferred and

posted in a non sensitive post.

6. The issue on transfer and posting has been considered time and again by this Court and the Hon'ble Apex Court and it has been settled by catena of decisions that it is entirely upon the competent authority to decide when, where and at what point of time a public servant has to be transferred from his present posting. In the present case, as submitted by the learned counsel for the respondents, though the transfer of the petitioner was effected based on serious allegations made against him and in the interest of the administration and its smooth functioning, the transfer of the petitioner is necessitated. Therefore, this Court is unable to interfere with the same. In fact, since the petitioner holding a preferable post, cannot claim any vested right to work at particular place and this Court cannot interfere with the transfer order which has been made in public interest and on administrative grounds. Therefore, this Court does not find any merits in the Writ Petition to entertain the same.

7. Accordingly, the Writ Petition is dismissed as devoid of merits. However, the petitioner is at liberty to make representation seeking for his re-transfer after a period of six months from the date of receipt of a copy of this order. On such representation being made, it is for the authority to consider the same and pass appropriate orders in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

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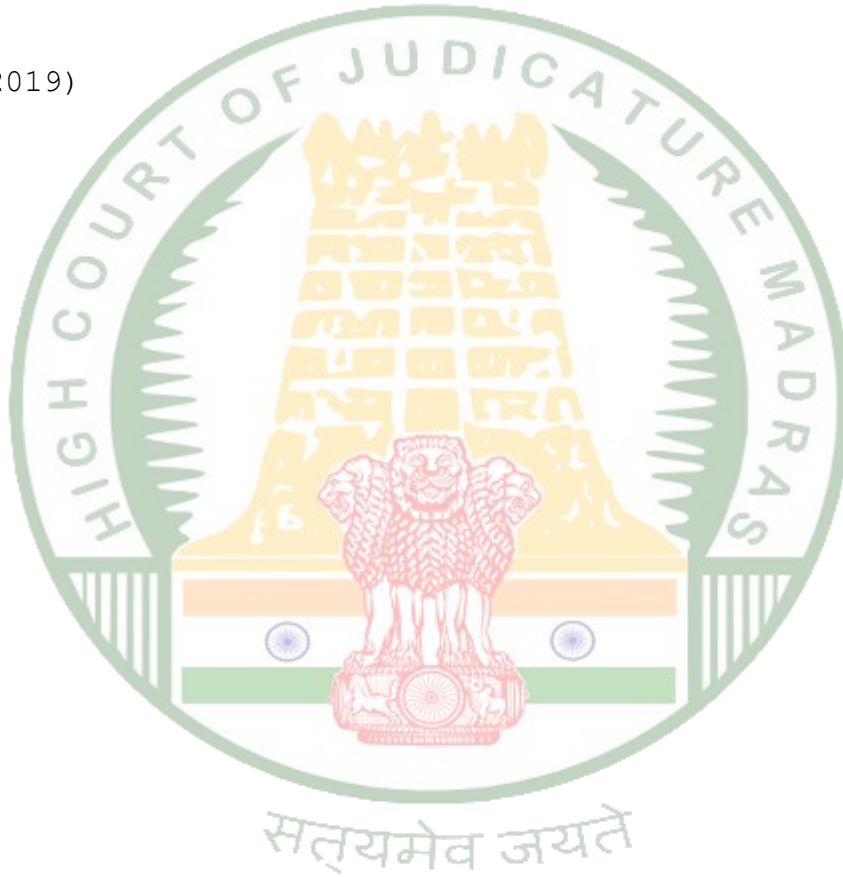
+1cc to Mr.K.Sasindran, Advocate, S.R.No. 84995

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CA(CO)
GN(17/12/2019)



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