



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	20.09.2021
Pronounced On	15.11.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.2980 of 2020
and
W.M.P.No.3473 of 2020

(Through Video Conferencing)

B.Senthilkumar

... Petitioner

Vs.

The Managing Director, (I/C)
Tamil Nadu Corporation for Development
of Women Limited,
Annai Teresa Mahalir Valagam,
Ground Floor, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to proceedings No.350/HR/TNSRLM/2019 dated 28.01.2020 passed by the respondent herein and quash the same and to issue consequential directions to the Respondent to permit the petitioner to continue in service as Executive in the Tamil Nadu State Supply and Marketing Society in Tamil Nadu Corporation For Development of Women Limited.

For Petitioner : M/s.Babu Rangasamy Associates

For Respondent : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

The petitioner was initially appointed as a "Manager". He was later promoted as an "Executive" with effect from 17.03.2017 in the Tamil Nadu Corporation for Development of Women Limited. The respondent has now transferred the petitioner to the District Supply and Marketing Society as a "Manager".



2. It is the case of the petitioner that the respondent cannot reduce the petitioner in rank from the Post of an "Executive" to the post of a "Manager" and therefore, the impugned order bearing reference in Proc.No.350/HR/TNSRLM/2019 dated 28.01.2020, so far as it reduces the rank of the petitioner from the post of an "Executive" to a "Manager" is liable to be quashed.

3. The learned counsel for the petitioner submits that the petitioner is willing to work with the District Supply and Marketing Society (DSMS) as an "Executive" without reduction in the rank and pay.

4. The learned counsel for the petitioner further submits that the impugned order transferring the petitioner as District Supply and Marketing Society (DSMS) Manager in Thanjavur District with immediate instructions to report to the Project Director, Thanjavur is liable to be quashed.

5. Appearing on behalf of the respondents, the learned Government Advocate submits that based on the requisition of the petitioner, the petitioner was being paid a consolidated salary in the capacity of the Executive Post increased from Rs.20,000/- to Rs.25,000/- on 23.03.2017 as per the proc.No.5311/G1/2016 dated 12.05.2017 and thereafter increased to Rs.30,000/- per month and paid as on date to the petitioner. It is submitted that the salary has been fixed only for the post of Executive at State Office and not for individual. He further submits that salary of the Executive Post in State Office in Chennai is different from the salary of District Supply and Marketing Society (DSMS) Manager in District Office since the roles and responsibilities of these posts are different. It is further submitted that the petitioner was engaged on contract basis and therefore question of either promotion or demotion does not arise.

6. It is further submitted that the position of "Executive" at the Tamil Nadu State Supply and Marketing Society (TNSSMS) and the position of a "Manager" in the District Supply and Marketing Society (DSMS) are neither inferior nor superior to one another and the roles of an employees are under the Rule.

7. It is further submitted that transfer is unavoidable and a necessary concomitant of a service.

8. It is further submitted that the consolidated pay for both the posts has been fixed based on the respective roles at State and District Level and therefore the petitioner cannot ask for being considered as promoted as an Executive at the District Supply and Marketing Society (DSMS).



9. Heard the learned counsel for the petitioner and the learned counsel for the respondents. I have perused the impugned orders.

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10. The petitioner was employed on contractual basis and continues to be a contract employee. Earlier the petitioner was working as a District Supply and Marketing Society (DSMS) Manager in Villupuram. Thereafter, for administrative reasons the Tamil Nadu Corporation for Development of Women Limited posted the petitioner as an Executive to District Supply and Marketing Society (DSMS), Chennai, in the year 2017.

11. At the request of the petitioner, the salary of the petitioner was increased from 20,000 to 25,000 with effect from the date of joining on 23.03.2017 by the Tamil Nadu Corporation for Development of Women Limited. The transfer of the petitioner as a District Supply and Marketing Society (DSMS) Manager in Thanjavur, from the post of an "Executive" in the State Supply Marketing Society has to be in terms of the relevant Rules and Guide Lines which is not forthcoming. It is not clear whether on being transferred and posted as District Supply and Marketing Society (DSMS) Manager, the petitioner will loose any monetary benefit and whether the petitioner would also loose his right to discharge duty in the higher post. While transfer from one place to another place can be justified, the re-designation can be made only in terms of rules and regulations and guidelines that binding on the respondent.

12. Therefore, the impugned order is quashed and the case is remitted back to the respondent to pass appropriate orders on the re-designation of the petitioner as a District Supply and Marketing Society (DSMS) Manager in Thanjavur District in accordance with the prevailing Government rules and regulations or other guidelines in force.

13. The petitioner is however, directed to report to duty on Thanjavur District, if the petitioner has not already reported to the duty. This exercise shall be carried out by the respondent within a period of six weeks from the date of receipt of a copy of this order.

14. This Writ Petition stands partly allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar



rgm/drl

To

The Managing Director,
Tamil Nadu Corporation for Development
of Women Limited,
Annai Teresa Mahalir Valagam,
Ground Floor, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

+1cc to the Government Pleader, S.R.No.58883

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GJ(CO)
SB(03/01/2022)