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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.17606 & 17613 of 2021
and

W.M.P.Nos.18733 & 18736 and 18744 of 2021

(Through Video Conferencing)

Ramesh	...	Petitioner in W.P.No.17606 of 2021
Vimalathithan	...	Petitioner in W.P.No.17613 of 2021

Vs

1.The Commissioner of Labour,
O/o.The Commissioner of Labour,
Chennai - 600 006.

2.The Additional Commissioner of Labour,
Madurai Region, Ellis Nagar,
Madurai. ... Respondents in both W.Ps.

3.The Assistant Commissioner of Labour,
Ramanathapuram District,
Office at Vivekanantha Street,
Ramanathapuram. .. Respondent in W.P.No.17606 of 2021

4.The Joint Commissioner of Labour,
Madurai Region,
Thamaraithotti, Race Course Road,
Madurai. ... Respondent in W.P.No.17613 of 2021

Prayer in W.P.No.17606 of 2021: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent in G2/15484/18 dated 30.10.2019 and quash the same and consequently direct the 1st respondent to transfer the



petitioner from the post of Record Clerk to Stamping Smith and to place him in the 3rd respondent office.

Prayer in W.P.No.17613 of 2021: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the 1st respondent to transfer the petitioner from the post of Record Clerk to Stamping Smith and to place him in the 3rd respondent office.

For Petitioner : Mr.K.Navaneetharaja
(in both W.Ps)

For Respondents: Mr.L.S.M.Hasan Fizal
(in both W.ps) Government Advocate

COMMON ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2.The learned counsel for the petitioner submits that the petitioner in W.P.No.17606 of 2020 opted for a transfer to Madurai Region. However, by the impugned order dated 30.10.2019 the request of the petitioner has been rejected on the ground that that post of Stamping Smith is not transferable under the provisions of the Tamil Nadu General Subordinate Service Special Rules for Class XXII of Tamil Nadu General Subordinate Service.

3.As far as the petitioner in W.P.No.17613 of 2021 is concerned, the petitioner's representation for transfer, is pending with the respondent and no order has been passed.

4.The learned counsel for the respondent submits in any absence of provisions enabling the transfer of a Record Clerk in any other jurisdiction, the request of the petitioners cannot be entertained. The petitioner may have a genuine case due to family problem.

5.It is submitted that under similar circumstances, by an order dated 28.05.2019, the Additional Commissioner of Labour, Chennai has transferred one K.Balaji working as a Stamping Smith as Record Clerk.



6.The Tamil Nadu General Subordinate Rules, does not specifically provide for transfer or recruitment of a Record Clerk either by direct recruitment or transfer recruitment.

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7.It is noticed that on Mr.Balaji from Arakkonam a Stamping Smith was transferred to Chennai vide order dated 28.05.2019 as a Record Clerk. Considering the same, the impugned order dated 30.10.2019 impugned in W.P.No.17606 of 2021 is quashed with the direction to the respondent to consider the request of the petitioner to transfer to a vacant post of a Stamping Smith if there is no difficulty in extracting the work from the petitioner as a Stamping Smith pay scale are similar. An appropriate orders may be passed by the respondents on merits subject to availability of vacancy within a period of 30 days from the date of receipt of a copy of this order. It is made clear that this order shall not be treated as a precedent in future. Asfaras a Writ Petition in W.P.No.17613 of 2021 is concerned the representation of the said petitioner may be considered in terms of the above observation within the aforesaid period.

8.These Writ petitions stand disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-CCC)

// True Copy //

Sub Assistant Registrar

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To

1.The Commissioner of Labour,
O/o.The Commissioner of Labour,
Chennai - 600 006.

2.The Additional Commissioner of Labour,
Madurai Region, Ellis Nagar,
Madurai.



3.The Assistant Commissioner of Labour,
Ramanathapuram District,
Office at Vivekanantha Street,
Ramanathapuram.

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4.The Joint Commissioner of Labour,
Madurai Region,
Thamaraithotti, Race Course Road,
Madurai.

+1CC to The Government Pleader, SR.No. 43006

W.P.Nos.17606 & 17613 of 2021
and

W.M.P.Nos.18733 & 18736 and 18744 of 2021

SPD(CO)

B.VC (02/11/2021)