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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18714 of 2021

and

W.M.P.Nos. 19980 & 19982 of 2021

(Through Video Conferencing)

R.Srinivasan

...Petitioner

Vs

1. Tamil Nadu Generation and
Distribution Corporation Limited,
Represented by its Chief Engineer (Personnel-A/C)
No.144, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited,
Thiruvannamalai.

3. The Assistant Engineer (O&M)
Tamil Nadu Generation and
Distribution Corporation Limited,
Office of Assistant Engineer (O&M),
Thiruvannamalai Electricity Distribution Circle,
Nallavanpalayam/West,
Thiruvannamalai.

4. N.Mani

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the concerned records from the first respondent, quash the order of the first respondent dated 17.08.2021 bearing Memo No.055214/1280/G42/G422/2021-1 as illegal, arbitrary and contrary to law and consequently direct the first to third respondents to retain the petitioner in the office of the third respondent.

For Petitioner : Mr.Balan Haridas

For Respondents :

For R1 to R3 : Mr.P.Subramanian
Standing Counsel



ORDER

The petitioner has challenged the impugned transfer order of the first respondent dated 17.08.2021 whereby the petitioner has been transferred from Nallavanpalayam to Ponnur/Vandavasi, Thiruvannamalai District.

2. The transfer order is challenged by the petitioner primarily on the ground that the respondents have transferred the petitioner to accommodate the fourth respondent who was working in Ponnur/Vandavasi, Thiruvannamalai District. It is further submitted that the petitioner joined duty at Nallavanpalayam only in 2020 and even before the normal period of service at Nallavanpalayam, he has been transferred to Ponnur/Vandavasi, Thiruvannamalai District even though no administrative reasons exists for effecting such transfer except to accommodate the fourth respondent, the impugned transfer order has been passed.

3. Appearing on behalf of the respondents, the learned standing counsel for the first to third respondents submits that the transfer order has worked out inasmuch as the fourth respondent has also been joined duty in Nallavanpalayam, Thiruvannamalai District on 01.09.2021 and a relieving order had also been issued to the petitioner on 01.09.2021.

4. Though the petitioner has taken leave on medical grounds from 21.08.2021, the learned standing counsel for the first to third respondents Mr.P.Subramanian submits that the transfer is on administrative grounds and is necessary concomitant of the Government Servants and therefore the petitioner cannot maintain this writ petition to challenge the transfer order.

5. Heard the learned counsel for the petitioner and the learned standing counsel for the first to third respondents.

6. The impugned transfer order has been passed only to accommodate the fourth respondent who had joined duty at Ponnur/Vandavasi, Thiruvannamalai District some time only in 2020. Before displacing a person like the petitioner, the respondents ought to have obtained a consent of the petitioner. Transfers under the guise of administrative grounds cannot be allowed to disturb an employee contrary to the Rules.

7. Even if the fourth respondent had a legitimate right to be considered for being transferred, such transfer cannot be made at the cost of an Officer who is otherwise entitled to continue in service merely by citing and stating as administrative grounds. Clearly, the transfer is intended only



to accommodate the fourth respondent and such transfer order cannot pass off as a transfer order under the guise of administrative grounds. Under these circumstances, the impugned transfer order transferring the petitioner cannot be sustained.

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8. That apart, the Government of Tamil Nadu has also issued G.O.Ms.No.249, Finance (Budget General-I) Department dated 21.05.2020 as per which transfers can be made only under the following circumstances:-

"4. The expenditure control measures ordered in the paragraphs 2 and 3 above shall be enforced strictly and scrupulously by the Departments of Secretariat, Heads of Departments and CEO of PSU, Autonomous Boards, Local Bodies, Universities, etc. The Secretaries to Government and Heads of Departments shall be personally responsible for enforcing the economy measures and shall give suitable instructions to the subordinate officers. They shall re-allot the budget provisions whenever required, to control and restrict the expenditure within the limits set in this Government orders and ensure that no deviation from the economy measures cited occurs. The Finance Department shall give effect to the reductions at the time of fixing the Revised Estimates for 2020-21."

9. Though the aforesaid order was issued for the Financial Year 2020-2021, the situation has not changed. The aforesaid Government Order has not been withdrawn though Mr.Hasan Fizal, learned Government Advocate while assisting the Court and stated that on instruction from the Department he has been instructed to inform the Court that the aforesaid Government Order was meant only for the Financial Year 2020-2021. There are no documents to substantiate that the above Government Order has been withdrawn by the Government of Tamil Nadu as mentioned above.

10. Since the impugned transfer order has been issued only with a view to accommodate the fourth respondent, such transfer cannot be sustained and cannot be allowed to pass off as the transfer made on administrative grounds. The impugned order therefore stands quashed with consequential relief to the petitioner. The respondents are therefore directed to re-transfer the fourth respondent back to Ponnur/Vandavasi, Thiruvannamalai District or retain the fourth respondent subject to any other vacancy.



11. This Writ Petition stands allowed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer (Personnel - A/C)
Tamil Nadu Generation and
Distribution Corporation Limited,
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Chennai - 600 002.
 2. The Superintending Engineer,
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Distribution Corporation Limited,
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Tamil Nadu Generation and
Distribution Corporation Limited,
Office of Assistant Engineer (O&M),
Thiruvannamalai Electricity Distribution Circle,
Nallavanpalayam/West,
Thiruvannamalai.
- +1 CC to Mr.Balan Haridas, Advocate, Sr.No. 46427.
+1 CC to Mr.P.Subramanian, Advocate, Sr.No. 46375.

W.P.No.18714 of 2021
and
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AK-II (CO)
LS (05/10/2021)