



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD) No. 11817 of 2021

and

W.M.P.(MD) Nos. 9269 & 9270 of 2021

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Eswaran

... Petitioner

Vs.

1.The DGP / Director,
Fire and Rescue Services,
Egmore,
Chennai - 600 008.

2.The Deputy Director,
Fire and Rescue Services,
Madurai.

3.The District Officer,
Fire and Rescue Services,
Thoothukudi District.

4.The Station Officer,
Fire and Rescue Services Department,
Thoothukudi Thermal Power Station,
Thoothukudi District.

5.R.Michael Raj

...Respondents

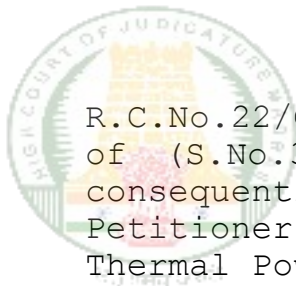
PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of **Writ of Certiorarified Mandamus**, calling for the entire record pertaining to the impugned order passed by the 1st respondent in R.C.No.22/C3/2021-3 dated 29.06.2021 and quash the same in respect of (S.No.39) 5th respondent is alone concerned, as illegal and consequently direct the respondents 2 & 3 to consider the Petitioner's Transfer Application and transfer him from Thoothukudi Thermal Power Station to Sathankulam Fire and Rescue Station within the time stipulated by this Court and pass orders.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.P.Subbaraj,
Standing Counsel for R1 to R4.

O R D E R

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the 1st respondent in



R.C.No.22/C3/2021-3 dated 29.06.2021 and quash the same in respect of (S.No.39) 5th respondent alone is concerned, as illegal and consequently direct the respondents 2 & 3 to consider the Petitioner's Transfer Application and transfer him from Thoothukudi Thermal Power Station to Sathankulam Fire and Rescue Station.

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2. The writ petitioner is working as driver-mechanic under the fourth respondent. The petitioner had applied for transfer on earlier occasion and his request was not considered due to the availability of the request made by the seniors. Again the petitioner applied to the third respondent for transferring him within Southern Region under the Thoothukudi Division, but the respondent did not consider the said request, on the other hand transferred the 5th respondent, who is junior to the petitioner, to Pettai, Tirunelveli District, which is an inter-region transfer. Challenging the said order, the present Writ Petition has been filed before this Court.

3. A counter affidavit has been filed by the second respondent, in which it is stated that the petitioner has made a request for transfer only to Thisayanvilai, Sathankulam and Valliyoor Fire and Rescue Service Stations and no vacancy arose in those three stations for the post of Driver-Mechanic and therefore the petitioner's request could not be considered. It is further stated in the counter that the relief sought for by the petitioner is liable to be rejected on the ground that the request of the petitioner and that of the fifth respondent were for two different Fire and Rescue Services Stations and further there was no vacancy available in the places, where the petitioner has requested for transfer.

4. On a perusal of the counter-affidavit, it could be seen that there is no malafide act on the part of the respondent in transferring the 5th respondent to Tirunelveli region. It is seen that at the relevant point of time no vacancy in the post of Driver-Mechanic arose at the places, where the petitioner sought for transfer, on the other hand a vacancy arose at Tirunelveli District, where the 5th respondent had sought for transfer.

5. The learned counsel for the petitioner even though disputed the said fact stated in the counter and argued that the respondent has not followed the rules while considering the request of the Petitioner for transfer, in the counter affidavit, it has been clearly stated that the respondent has been considering the petitioner's request on earlier occasions in transferring him at the places as proposed in his transfer applications and further it could be seen from the records that no one in the post of Driver-Mechanic was transferred in the places sought for by the petitioner, as no vacancy arose in those stations and therefore the said transfer order has been passed.



6. Considering the the averments made in the Affidavit, filed in support of the Writ Petition and the Counter-affidavit and the arguments submitted on either side, this court cannot entertain the writ petition and grant relief to the writ petitioner, as prayed for.

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7. At this stage, learned counsel for the petitioner sought liberty to make a request to the second respondent to consider for transfer to Tirunelveli region in any one of the vacancies, that would arise. This Court, granting such liberty to the petitioner, directs that if any such request is made by the petitioner, the second respondent shall consider and take appropriate decision in accordance with law as expeditiously as possible within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The DGP / Director,
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Chennai - 600 008.
- 2.The Deputy Director,
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- 4.The Station Officer,
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+1 CC to M/s.SPL.GP (SR-31343[F] dated 06/10/2021)

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RK/PM (08/11/2021) 4P 6C