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W.P.No.26980 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2022

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.26980 of 2022

and

W.M.P.No.26194 of 2022

A.Valarmathi

... Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Limited

Rep. by its Chief Engineer (Personnel)

N.P.K.R.R. Maligai

144, Anna Salai

Chennai – 600 002.

2. The Superintending Engineer

Palladam Electricity Distribution Circle

Office of the Superintending Engineer

Tamil Nadu Generation and Distribution Corporation Limited

Palladam 641 664.

3. The Assistant Accounts Officer

Office of the Additional Chief Engineer

Protection and Communication Circle

Tamil Nadu Transmission Corporation Limited

Coimbatore 641 012

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, after calling for records from all respondents and quash the order of the 1st respondent dated 21.09.2022 bearing Memo no.055876/801/G.52/G.521/2022 and the order of the 2nd



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respondent dated 22.09.2022 bearing Ku.Aa.No.708/Me Pa Po/P Me P V/Pall Ne Pe-1 U Tha-1/Ko.V.Ma/2022 and order of the 3rd respondent dated 23.09.2022 bearing Ku. Aa.No.371/K P/U K Th/Ko. Po/2022 as illegal, arbitrary and punitive and for a consequential direction to retain the petitioner as Accounts Supervisor in the Office of the Additional Chief Engineer, Protection and Communication Circle, Coimbatore.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.P.Subramanian,
Standing Counsel.

ORDER

This writ petition has been filed to quash order dated 21.09.2022 bearing Memo No.055876/801/G.52/G.521/2022 of the first respondent, order dated 22.09.2022 bearing Ku.Aa.No.708/Me Pa Po/P Me P V/ Pall Ne Pe-1 U Tha-1/Ko. V. Ma/2022 of the 2nd Respondent, order dated 23.09.2022 bearing Ku.Aa.No.371/K P/U K Th/Ko. Po/2022 of the 3rd respondent as illegal, arbitrary and punitive and for a consequential direction to retain the petitioner as Accounts Supervisor in the Office of the Additional Chief Engineer, Protection and Communication Circle, Coimbatore.

2. The petitioner has challenged the impugned transfer order in Memo



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No.055876/801/G.52/G.521/2022 dated 21.09.2022 and the consequential

order of the second and third respondents in

கு/ஆ.எண்:708/மேபாபொ/பமிபவ/பல்/நிபி-1/உத-1/கோ.வி.மா/2022 dated

22.09.2022 and கு/ஆ.எண்:371/கபி/உகத/கோ.பொ/2022 dated 23.09.2022

respectively.

3. The learned counsel for the petitioner submits that the petitioner is being victimised based on a complaint by her fellow colleagues namely S.Chinnathai and S.Maheswari stating that the petitioner was teasing them. It is submitted that the petitioner was enquired and an order was passed by the first respondent. However, subsequently documents were furnished to the petitioner only on 01.09.2022 to which the petitioner has replied.

4. It is further submitted that the findings of the Enquiry Officer also does not support any of the allegations in the complaint dated 19.03.2022 given by said Chinnathai and Maheswari.

5. Most importantly, it is submitted that the order transferring the



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petitioner is punitive in nature in terms on the decision of the Hon'ble Supreme Court in the case of ***Somesh Tiwari Vs Union of India and others reported in (2009) 2 SCC 592***. Transfer order passed is in the nature of punishment without issuance of any charge memo and it is therefore submitted that it is liable to be interfered with by this Court.

6. Opposing the prayer in this writ petition the learned Counsel for the respondent submitted that the petitioner is in the habit of teasing fellow colleagues and despite several warnings petitioner has not changed her way and therefore the first respondent was compelled to take decision to transfer the petitioner from Coimbatore to Palladam. The learned counsel for the respondent also furnished a copy of the letter கு.ஆ.எண்:0559/நிர்/உத1./கோ/கோ./2022-1 dated 10.08.2022.

7. Heard both sides and perused the materials available on record.

8. The attitude of the petitioner may warrant transfer on account of administrative reasons if the conduct is unbecoming, creates and vitiates the working atmosphere. However, to punish the petitioner transferring her would



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be impermissible unless a prior Charge Memo was issued to her and was proceeded departmentally. Under these circumstances, I find that the impugned order transferring the petitioner is prima facie unsustainable.

9. However, I leave it open for the respondents to issue proper Charge Memo to proceed against the petitioner departmentally for imposing appropriate punishment under relevant provisions of the Department and Appeal Rule for the alleged mis-conduct of the petitioner. Liberty is also given to the respondent to issue a strict warning by way of memo if it is felt the issue can be solved for the present to bring a closure of the file.

10. With the above observations, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is allowed.

07.10.2022

Index : Yes/No
Speaking/Non-Speaking Order
kmm/dpq

To



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C.SARAVANAN, J.



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