



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 2593 of 2017

and

W.M.P. Nos. 2560 and 2561 of 2017

S.Suburethinam

... Petitioner

-vs-

1. The Principal Secretary /Managing Director
Tamil Nadu Civil Supply Corporation, Head Office
No.12, Thambusamy Road
Kilpauk, Chennai - 10.

2. The Senior Regional Manager
Tamil Nadu Civil Supply Corporation
Nagapattinam Region
Nagapattinam.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the impugned transfer order in Proc. No. AE4/3891/2016-[4] dated 30.01.2017 passed by the First Respondent and quash the same.

For Petitioner : Mr.Vellapandi

For Mr. K.Sudalaikannu

For Respondents: Mr.L.P.Shanmugasundaram

Standing Counsel

O R D E R

Heard Mr. K.Sudalaikannu, Learned Counsel for the Petitioner and Mr. L.P.Shanmugasundaram, Learned Special Government appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, while working as Bill Clerk in Tamil Nadu Civil Supplies Corporation, had been transferred from



Nagapattinam to Chennai (North) by Proceedings No. AE4/3891/2016-(4) dated 30.01.2017 passed by the First Respondent, which is challenged in this Writ Petition.

3. This Court at the time of admission on 03.02.2017 had passed the following self-explanatory order:-

"2. Mr. V.Prakash, Learned Senior Counsel appearing for the petitioner would submit that the impugned order of transfer is, per se, in violation of the proceedings of the Chairman and Managing Director dated 02.03.2000 and would submit that, admittedly, the seniority in the cadre of Bill Clerk/ Junior Assistant/ Assistant are being maintained at the Regional Level and the Petitioner has been transferred out of the region and it cannot be by way of punishment and even in respect of such punitive transfers, supernumerary posts should be created by the Head Office in the respective Region, so as to accommodate the individual transferred as a measure of punishment. But, such an exercise has not been done and he would further add that since the petitioner espoused the cause of union activities, he has been singled out and transferred and therefore, prays for interim orders.

3. When the above writ petition was listed on 01.02.2017, this Court directed Mr. L.P. Shanmuga Sundaram, learned Standing Counsel for Tamil Nadu Civil Supplies Corporation, who accepted notice on behalf of the respondents, to produce the files and the files have also been produced and this Court has also gone through the files.

4. Mr. K.Venkataramani, learned Additional Advocate General, assisted by Mr. L.P.Shanmuga Sundaram, learned Standing Counsel for respondents, would submit that taking into consideration the aspect of the discipline and the interest of administration, despite the order of the transfer, the seniority of the petitioner in the particular region will not be disturbed and prays for time to file counter.

5. Call on 16.03.2017. Counter of respondents to be filed by then, in consonance with the records."

4. It has been brought to notice from the Proceedings in Na. Ka. No. E6/ 2500/2019 dated 27.03.2019 of the Manager (Administration) in the office of the Second Respondent that the Petitioner had on 13.02.2017 reported for duty at the transferred place in furtherance to the impugned order.



5. The legal position is well established as held by the Hon'ble Supreme Court of India in Union of India -vs- S.L.Abbas [(1993) 4 SCC 357] that an order of transfer is an incident of service and unless it is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it.

6. Having due regard to the fact that a period of more than five years have lapsed from the time of passing of the impugned order, it is improbable that the same circumstances that then existed still continues. In that backdrop, there does not appear to be any useful purpose served by venturing into the task of testing the validity of the impugned order viz-a-viz the aforesaid legal position at this distance of time. Viewed from that perspective, it is made clear that the concerned authorities are not precluded from taking any fresh decision as the exigencies may require regarding the place of posting of the Petitioner in accordance with law.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

Maya
To

1. The Principal Secretary /Managing Director
Tamil Nadu Civil Supply Corporation, Head Office
No.12, Thambusamy Road
Kilpauk, Chennai - 10.
2. The Senior Regional Manager
Tamil Nadu Civil Supply Corporation
Nagapattinam Region
Nagapattinam.

W.P. No. 2593 of 2017

ss[co]
srg 31/05/2022