



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

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

W.P.NO.26566 OF 2017

AND

W.M.P.NOS.28283, 28284 AND 30140 OF 2017

P.David Samuvel

... Petitioner

.Vs.

1. The Chief Engineer (Personnel),
TANGEDCO,
N.P.K.R.R Maligai,
144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Gobi Electricity Distribution Circle,
Gobi, Erode District.
3. The Assistant Engineer
(Operation & Maintenance),
Chennampatty,
Erode District.
4. Sivanantham,
No.718, South Street,
Reddipalayam,
Vellithiruppur,
Erode - 638 504.

... Respondents

(R4 impleaded vide order dated 22.11.2017
in W.M.P.No.32089 of 2017 in
W.P.No.26566 of 2017)

PRAYER:-

Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari to call for the records related to the impugned order in Memo.No.2478/724/Adm.I/A2/F.RT/2017 dated 06.10.2017 of the Second Respondent and to quash the same.



WEB COPY

For Petitioner : Mr.R.Syed Mustafa

For Respondents : Mr.P.Subramanian
Standing Counsel
(for R1 to R3)

Mr.J.Saravanavel
(for R4)

O R D E R

Heard Mr.R.Syed Mustafa, Learned Counsel for the Petitioner and Mr.P.Subramanian, Learned Standing Counsel appearing for the First to Third Respondents and Mr.J.Saravanavel, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, while as working as Revenue Supervisor in the TANGEDCO, was transferred from Athani to Chennampatty by Order in Ku.Aa.No.84/44/NiPi4/Udavi/KoViMa/2017 dated 15.02.2017 passed by the Second Respondent and it was cancelled by another order in Memo No.2478/724/Adm.I/A2/F.RT/2017 dated 06.10.2017 passed by the Second Respondent, which is challenged in this Writ Petition.

3. This Court at the time for admission on 10.10.2017 had passed the following self-explanatory order:-

"2. The Petitioner, based on his request, was transferred by order dated 15.02.2017 from Athani to Chennampatty. He was also relieved from Athani west on 07.08.2017 and he joined duty at Chennampatty on 08.08.2017. After one month viz., on 08.09.2017, the Chief Engineer, TANGEDCO, the First Respondent herein cancelled the order of request transfer dated 15.02.2017. Immediately a representation was given by the petitioner on 11.09.2017 expressing the difficulties caused by the sudden cancellation of the transfer order and accepting his representation, the first respondent cancelled the order of transfer dated 08.09.2017 by his proceedings dated 21.09.2017 and accordingly the petitioner was allowed to continue in Chennampatty. However, once again the Superintending Engineer, Gobi Electricity Distribution Circle, Gobi, the second respondent herein, by the impugned order dated 06.10.2017, has transferred the petitioner to Athani west to accommodate the petitioner's junior Mr.S.Sivanandam at Chennampatty. It is not known how the second



WEB COPY

respondent can pass the impugned order. When the petitioner was transferred accepting his request to Chennampatty from Athani, prima facie, it appears that only to accommodate Mr.S.Sivanandam, the petitioner has been disturbed from Chennampatty. However, it is represented that the petitioner is still continuing at Chennampatty, he is permitted to continue in the said place, till further orders. "

4. In the Counter-Affidavit dated 23.01.2018 filed by the First Respondent, it is stated that in view of that interim order passed by the Court, the Petitioner has joined duty in Chennampatty on 31.10.2017 forenoon. As such, it is evident that the said arrangement continues to be in operation as on date.

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 four 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 and till then, the status quo as prevailing today shall be in force.

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

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

skr



To

1. The Chief Engineer (Personnel),
TANGEDCO,
N.P.K.R.R Maligai,
144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Gobi Electricity Distribution Circle,
Gobi, Erode District.
3. The Assistant Engineer
(Operation & Maintenance),
Chennampatty,
Erode District.

+1cc to Mr.R.Syed Mustafa, Advocate, S.R.No.11651
+1cc to Mr.P.Subramanian, Advocate, S.R.No.12176
+1cc to Mr.J.Saravanavel, Advocate, S.R.No.11456

W.P.NO.26566 OF 2017

PA (CO)
PBS/23/05/2022