



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2125 of 2022

and

W.M.P.(MD) Nos.1844 & 1846 of 2022

P.Rajesh Kanna

... Petitioner

-vs-

- 1.The Senior Personnel Officer/Admin.,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
TANGEDCO, Administrative Branch,
No.144, Anna Salai, Chennai-600 002.
- 2.The Chief Engineer,
Distribution/Madurai Region,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
TANGEDCO, Madurai-7,
Madurai District.
- 3.The Superintending Engineer,
TANGEDCO,
Madurai Electricity Distribution Circle (Metro),
Madurai-7, Madurai District.
- 4.The Superintending Engineer,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai-7, Madurai District.
- 5.R.Ravi,
Administrative Officer,
TANGEDCO,
Madurai Electricity Distribution Circle/Metro,
Madurai-7, Madurai District.
- 6.P.Ochathevan,
Administrative Officer,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai-7, Madurai District.



7.Tmt.A.N.N.Amutha,
The Senior Personnel Officer/Admin,
Tamil Nadu Generation & Distribution
Corporation Ltd.,
TANGEDCO, Administrative Branch,
No.144, Anna Salai, Chennai-600 002.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned orders of cancellation of transfer and reposting orders in memo No.078022/825/G.31/G.312/2021-2, and Memo No.078022/825/G.31/G.312/2021-3 dated 31.12.2021 and Memo No.078022/825/G.31/G.312/2021-6, dated 12.01.2022 on the file of the Respondent No.1 and quash the same as illegal in respect of transfer of the petitioner to Erode Electricity Distribution Circle and consequently to direct the Respondents No.1 to 4 to retain the petitioner at the office of Respondent No.3 as per the first transfer order dated 15.12.2021 within the time stipulated by this Court.

For Petitioner :	Mr.S.Louis
For RR1 to 4 :	Mr.Veera Kathiravan, Additional Advocate General assisted by Mr.S.Arivalagan

O R D E R

The cancellation of transfer and re-posting orders dated 31.12.2021 and 12.01.2021 on the file of the 1st respondent are sought to be quashed in the present writ petition.

2.The writ petitioner is working as Administrative Officer at Erode Electricity Distribution Circle. He was transferred from Erode to Madurai on administrative grounds in proceedings dated 15.12.2021 and the 5th respondent was transferred in the place of the petitioner at Erode. The 5th respondent filed W.P.(MD) No.23243 of 2021 challenging the transfer order and the writ petition was dismissed by this Court on 29.12.2021. Thereafter, the orders of transfer issued were cancelled and the writ petitioner joined at Madurai.

3.Learned counsel appearing for the petitioner contended that even after joining at Madurai, again the petitioner was transferred to another post within Madurai District and the said order was also cancelled and finally the petitioner again was directed to join at Erode. Repeated cancellation orders were passed at the first instance of the authorities and not on genuine grounds. Thus, the petitioner constrained to move the present writ petition.

4.Learned Additional Advocate General appearing on behalf of respondents 1 to 4 made a submission that pursuant to the dismissal of the writ petition filed by the 5th respondent, the original



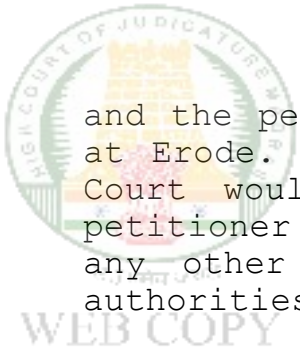
transfer orders were restored and therefore, the impugned cancellation order is nothing but restoration of the original transfer orders issued at the first instance.

5.No Writ against transfer orders needs to be entertained in a routine manner by the High Court. A Writ against the transfer order may be entertained if an allegation of mala fides is raised or the transfer orders are issued without jurisdiction. Even in case of raising an allegation of mala fides, the authority in personal capacity has to be impleaded. In the present case, the petitioner has impleaded the authority in her personal capacity. However, the allegations set out for establishing mala fides are absolutely insufficient to form an opinion that the impugned orders are passed with some motive. Mere cancellation of transfer order cannot be a ground to substantiate the mala fide intention of the authorities. To establish a mala fide intention, the proof or the statement must be irrebuttable and the Court may be in a position to form an opinion that the order impugned is passed with such motive or mala fide intention. In the absence of any such proof or acceptable statement, mere cancellation of transfer cannot be construed as a mala fide intention for the purpose of issuing such orders.

6.Learned counsel for the petitioner stated that cancelling the order one after the other shows the adjustment taken place internally and the same could be viewed in all fairness that such adjustments were for various consideration. Such general statement cannot be a ground to draw an inference for the purpose of establishing mala fide intention. Adjustments in transfer on administrative exigencies are certainly prerogative powers of the authority and transfers are made in order to make some adjustments in the administration some time for improving the efficiency. Therefore, the general statement made in this regard cannot be a ground to interfere with the orders of transfer or cancellation of transfer order.

7.Transfer is an incidental to service more so a condition of service. Post or place can never be claimed as a matter of choice by a public servant. The petitioner is working in the rank of Administrative Officer, which is a responsible position and therefore, transfer, at that level, may be required on various reasons. In the event of interference by the Courts in the matters of transfer, the authorities will not be in a position to run the public administration in a peaceful manner. Courts would not interfere with the routine administration of the Department. Transfer being an incidental to service, it is for the authorities to consider various aspects and take a decision in view of the interest of public.

8.In the present case, transfer order was issued and the 5th respondent filed a writ petition and the said writ petition was also dismissed. Thereafter, the original transfer orders were restored



and the petitioner was also directed to join in his original place at Erode. This being the factum, any further interference by the Court would impede the normal administration and it is for the petitioner to submit a representation or otherwise, if he has got any other special circumstances warranting consideration by the authorities.

9. With the above observations, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar (CS)

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To

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Madurai-7, Madurai District.
4. The Superintending Engineer,
TANGEDCO,
Madurai Electricity Distribution Circle,
Madurai-7, Madurai District.

+1 CC to M/s.S.LOUIS, Advocate (SR-5292[F] dated 10/02/2022)

+1 CC to M/s.S.ARIVALAGAN, Advocate (SR-5792[F] dated 11/02/2022)

W.P.(MD) No.2125 of 2022

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