



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.03.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.2351 of 2022

and WMP Nos.2040 & 2041 of 2022

Sam Vedaraj

... Petitioner

Vs.

1.The Chief Engineer (Distribution)
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Tirunelveli Region,
Tirunelveli-11.

2.The Executive Engineer (Distribution)
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Vallioor,Tirunelveli District.

3.The Executive Engineer (Distribution)
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Virudhunagar Virudhunagar EDC, Virudhunagar District.

4.Rajalakshmi Devi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records of the impugned order of transfer passed by the 1st respondent in Memo NO.00765/172/Adm/A.1/F.ADS/2022-1 dated 24.01.2022 and consequential impugned relieving order passed by the 2nd respondent in Memo. No.0389/074/ADM/A.1/2022 dated 27.01.2022 and quash the same.

For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.S.Arivalagan

ORDER

The order of transfer issued on administrative exigencies in proceedings dated 27.01.2022 is under challenge in the present writ petition.

2. The petitioner is working as Administrative Supervisor in the TANGEDCO. He was transferred from Vallioor, Tirunelveli District to Virudhunagar District on administrative exigencies. Such order issued on administrative exigencies cannot be interfered with by the high Court. The grievances raised by the writ petitioner on personal grounds cannot be considered by the high Court in a writ proceedings. When an order of administrative



transfer is issued, the employees are bound to obey the same and if at all any personal grievance exists, they have to approach the competent authority for redressal and certainly not the high Court. High Court cannot consider such personal grievance in a writ proceedings, which would result in interference with the routine administration. This Court cannot sit on appeal and decide, which employee to be posted in which place. Therefore, the petitioner has to approach the authorities for redressal of his grievance.

3. Transfers are issued on administrative grounds for efficient and effective public administration. Efficient public administration is the constitutional mandate and under those circumstances, the act intended to provide an absolute power to the Government to transfer an employee from one revenue district to another revenue district on administrative grounds notwithstanding anything contained in the act or any special rules or adhoc rules.

4. Thus, this Court is of the considered opinion that day-to-day administration of the Government vests with the executives. The day-to-day administration are to be effectively monitored and regulated by the competent authorities. Courts are not expected to interfere with the day-to-day administration of the Government departments. No doubt, on exceptional circumstances, the Court can entertain writ petitions, where an order of transfer is under challenge on certain limited grounds. If any order of transfer has been passed without jurisdiction or allegations of mala fides are raised or in certain exceptional circumstances, where materials are available to establish that the transfer is punitive, then the Courts can interfere, in order to mitigate the exceptional circumstances advanced. However, the scope of interference is undoubtedly limited and in the event of frequent interference by the Constitutional Courts in the matter of administrative transfer, the executives may not be in a position to run the administration in a smooth manner.

5. The next question arises, whether transfer gives a right to a government employee. The answer would be that transfer would not provide any right to a Government employee. Transfer is an incidental to service, more so a condition of service. When an offer of appointment is issued by the competent authorities, the acceptance of appointment is implied that the transfers are agreed and the employment is a contract between the employer and employee and the transfer being incidental, the scope for challenge is in narrow campus. Thus, when there is no right in the matter of transfer and transfers are not affecting the service conditions of an employee, then the entertainability of the writ petition is to be considered.

6. As stated above, entertainability rests on limited grounds viz., (i) without jurisdiction; (ii) mala fide; and (iii) punitive,



if established with sufficient materials to the satisfaction of the Courts.

7. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which a decision is taken by the competent authority in consonance with the provisions of the statutes and rules, but not the decision itself.

8. There are many complaints against the public officials in common parlance. General public are giving complaints and some complaints are motivated and some complaints require enquiry. However, if the higher officials receive frequent complaints against an officer in a particular manner or regarding certain instances, then it is the subjective satisfaction of the competent authority concerned to take a decision and the Courts cannot play any role in such decision of the administrative authorities. In the process of administration, an executive takes a decision considering the nature of complaints and the seriousness involved and further enquiry to be conducted, if necessary. Such a process is an administrative process, which is the day-to-day administration and in the event of interference by the High Courts, it would be undoubtedly, a tedious affair for the executives to run the administration in a peaceful manner and to enforce discipline amongst the employees, which is of paramount importance.

9. This Court cannot brush aside the general allegations in the public domain against the public servants. There are large scale corruption in Government Departments. People are not only lamenting, even for their rightful claims, bribes are demanded. Under these circumstances, administrative transfers are warranted and therefore, the Courts are expected to exercise restraint in exercise of the power of judicial review under Article 226 of the Constitution of India and the discipline to be maintained in public service is also to be considered by the Courts, while interfering with such administrative transfers.

10. This being the factum, the petitioner has not established any ground for the purpose of interfering with the order of transfer. Accordingly, the writ petition stands dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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+1 CC to M/s.R.J.KARTHICK, Advocate (SR-14750[F] dated 28/03/2022)

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DKS (CO)
KB(18.04.2022) 4P 5C