



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

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

W.P. (MD)No.9437 of 2021

and

W.M.P (MD)No.7160 of 2021

WEB COPY

M.Baskaran

... Petitioner

Vs.

1.The Chief Engineer(personnel),
Tamil Nadu Generation and Power Distribution
Corporation Limited(TANGEDCO),
144, Anna Salai, Chennai-600 015.

2.The Superintending Engineer,
Tamil Nadu Generation and Power Distribution
Corporation Limited(TANGEDCO),
Thanjavur Electricity Distribution Circle,
Thanjavur District.

3.Mrs.Vijaya Gowri,
Now holding the post of the Superintending Engineer,
Tamil Nadu Generation and Power Distribution
Corporation Limited(TANGEDCO),
Thanjavur Electricity Distribution Circle,
Thanjavur District.

4.The Junior Engineer(Operation and Maintenance),
Tamil Nadu Generation and Power Distribution
Corporation Limited(TANGEDCO),
Semmangudi-612 605,
Thanjavur District.

...Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned transfer order issued by the second respondent in his proceedings in Ku.No.315/Ni.Pi.3/Ni.Vu.1/Ko.Ni.Ma./2021, dated 4.5.2021 transferring the Petitioner from Semmangudy to Pattukkottai west Section and consequential order of reliving issued by the fourth respondent in Lr.No.JR/O &M/SMG/F.REW/D.No.015/2021, dated 4.5.2021 and to quash the same as illegal and arbitrary

For Petitioner : Mr.C.Gangai Amaran
(No Appearance)

For Respondents : Mr.S.Arivalagan
Standing Counsel



ORDER

The petitioner is working as Commercial Inspector in TANGEDCO. He was transferred from Semmangudy Branch North Kumbakonam Division to Pattukottai Division, on administrative grounds.

2.The learned counsel for the respondents brought to the notice of this Court that disciplinary proceedings were initiated against the writ petitioner. Therefore, the request of transfer application was not considered. However, the petitioner was transferred on administrative grounds. The transfer order has been issued transferring the petitioner from North Kumbakonam Division to Pattukottai Division, within the same district. Therefore, transfer would not affect the petitioner in any manner.

3.Administrative transfer cannot be interfered with by the Court in a routine manner. Transfer is an incidental to service. Moreso, a condition of service. The principles governing the transfers are to be considered by this Court, at the first instance.

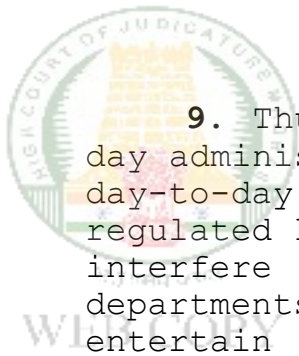
4. Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Act No.14 of 2016) governs the powers of authorities to transfer government employees.

5. Section 48 stipulates 'posting and transfer'. Sub-section (1) contemplates that 'a member of a service or class of service may be required to serve in any post both on the cadre of such service or class for which he is qualified'.

6. Sub-section (3) contemplates 'notwithstanding anything contained in this Act or any special rules or adhoc rules, the Government may transfer any Government servant from one revenue district to another revenue district within the State, on administrative grounds.'

7. The power of transfer conferred on the Government under Section 48 of the Act is absolute. Even sub-section (3) contemplates, on administrative grounds, the Government, notwithstanding the provisions of the Act or any special rules or adhoc rules, may issue orders of transfer on administrative grounds.

8. Let us consider the spirit of this provision. 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.



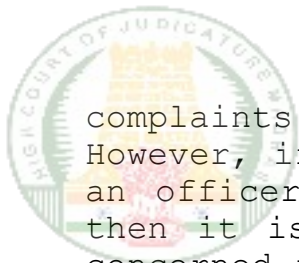
9. Thus, this Court is of the considered opinion that day-to-day administration of the Government vests with the executives. The day-to-day administration are to be effectively monitored and regulated by the competent authorities. Courts are not expected to interfere with the day-to-day administration 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.

10. 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.

11. 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.

12. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which is decision is taken by the competent authority in consonance with the provisions of the statutes and rules, but not the decision itself. Therefore, the processes adopted are that the Commissioner of Social Welfare sends proposal based on various reasons, including administrative reasons in certain cases and accordingly, transfer orders were issued transferring 13 officials by the Government in G.O.(pa)No.8 dated 19.01.2022. Thus, the said administrative reason need not be interfered with by the Courts in a writ proceedings.

13. There are many complaints against the public officials in common parlance. General public are giving complaints and some

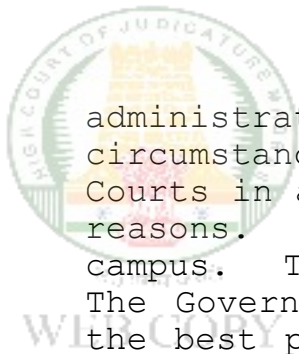


complaints are motivated and some complaints require enquiry. However, if the higher officials receive frequent complaints against an officer in a particular manner or regarding certain instances, then it is the subjective satisfaction of the competent authority concerned to take a decision and the Courts 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.

14. 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.

15. One or two decades back, the working atmosphere in Government Offices are entirely different which cannot be compared with the present day administration. Therefore, those judgments delivered some years back, may not have much relevance with reference to the current day affairs in the Government departments and in the perspection of the public at large.

16. Government servants play a significant role in running the administration of our great nation. They are important constituents of the administrative set up of our nation. They are the pillars of the Government Departments on whose shoulders, the responsibility to implement the Government policies lies. They provide public services to the citizen at the grass root level and in the same way, they forward the grievances of the public, their representations and demands to the higher for their effective resolution. The Government employees have different work culture and responsibility as compared to the counterparts in private sectors. They are smartly paid and they have some kind of perquisites given to them but at the same time, they have heavy responsibility to the Government in particular and public in general. These Government employees enjoy a special status. They are receiving a decent salary from the taxpayers money. In the event of encouraging the district level officers, to choose the place and post in a particular manner, this Court is of the considered opinion that the



administrative discipline will certainly parallelize and under those circumstances, the administrative reasons place a dominant role. Courts in all circumstances cannot interfere with the administrative reasons. Administrative reasons cannot be defined in a narrow campus. There may be several instances of administrative reasons. The Government may have decided that a particular officer will be the best person to tackle certain issues in a particular place or post. As stated earlier, it is the subjective satisfaction of the competent authority and therefore, the power of judicial review and its scope are undoubtedly limited and under these circumstances, this Court is of the opinion that the petitioner has not established any exceptional or extraordinary circumstances for the purpose of interfering with the order of administrative transfer which is impugned in the present writ petition.

17. In view of the above, the relief sought for in the present writ petition cannot be considered. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

Ns

To

1. The Chief Engineer (personnel),
Tamil Nadu Generation and Power Distribution
Corporation Limited (TANGEDCO),
144, Anna Salai, Chennai-600 015.
2. The Superintending Engineer,
Tamil Nadu Generation and Power Distribution
Corporation Limited (TANGEDCO),
Thanjavur Electricity Distribution Circle,
Thanjavur District.
3. Mrs. Vijaya Gowri,
Now holding the post of the Superintending Engineer,
Tamil Nadu Generation and Power Distribution
Corporation Limited (TANGEDCO),
Thanjavur Electricity Distribution Circle,
Thanjavur District.



4.The Junior Engineer(Operation and Maintenance),
Tamil Nadu Generation and Power Distribution
Corporation Limited(TANGEDCO),
Semmangudi-612 605,
Thanjavur District.

WEB COPY

W.P. (MD)No.9437 of 2021

and

W.M.P (MD)No.7160 of 2021

23.03.2022

RK(04/04/2022) 6P 5C