



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.05.2022**

CORAM

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**
and
THE HONOURABLE MR.JUSTICE **R.VIJAYAKUMAR**

W.A (MD) .No.472 of 2022

and

CMP(MD) Nos.4460 to 4462 of 2022

T.Ravikumar

...Appellant/Petitioner

Vs.

1.Commissioner,
Adi Dravidar Welfare Department,
Chepauk,
Chennai - 600 005.

2.District Adi-Dravidar & Tribal Welfare Officer,
District Adi-Dravidar & Tribal Welfare Department,
Tirunelveli District,
Tirunelveli.

...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD) No.22938 of 2021, dated 25.04.2022.

Prayer in WP(MD) . 22938/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-3. to issue WRIT OF MANDAMUS directing the 1st respondent to consider the petitioners case for transferring to Tenkasi District in view of the option submitted by him after bifurcation of District based on the proposal sent by the 2nd respondent in his proceedings in Na.Ka.No.A3/45161/2019, dated 08.01.2020 and thereby fix the petitioners dated of joining in Tenkasi District with the same seniority as existed in the integrated District, within the time limit that may be stipulated by this Honble Court

For Appellant : Mr.K.Gurunathan

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader



J U D G M E N T

(Judgment of the Court was made by **R. SURESH KUMAR, J.**)

This intra-court Appeal has been directed against the order passed by the learned Judge in W.P(MD) No.22938 of 2021, dated 25.04.2022.

2.The writ petitioner is the appellant herein, who filed the writ petition with the prayer of writ of Mandamus, directing the first respondent therein, to consider the petitioner's case for transferring to Tenkasi District in view of the option submitted by him after bifurcation of District, based on the proposal sent by the second respondent in his proceedings dated 08.01.2020.

3.When the said writ petition was considered and decided, the learned Judge by the impugned order has taken a view that only a proposal has been sent by the second respondent to the first respondent, therefore, based on the proposal, no right has been accrued on the petitioner to seek transfer or appointment in the desired place, therefore, at this stage, since the plea raised by the petitioner being prematured one, on that ground rejected the writ petition by the impugned order.

4.Mr.K.Gurunathan, learned counsel appearing for the appellant would contend that when bifurcation has been made between two revenue Districts under which a new Revenue District is created, option had to be given by various employees working in various Departments in the State Government in the District from where, bifurcation has been made. Only in this context, option has been given, based on which, the proposal has been sent by the second respondent to the first respondent, who is heading all the Districts concerned and the said proposal since has been pending, during the pendency of the proposal, since transfer and appointment has been made to some of the persons, who claimed to be the juniors of the petitioner, the petitioner triggered to approach this Court with the aforestated prayer.

5.Heard Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for the respondents, who would submit that based on the option exercised by the petitioner for getting transfer to the bifurcated District, i.e., Tenkasi District, proposal has already been sent by the second respondent, which would be considered by the first respondent on merits and decision may be taken within a time frame that may be stipulated by this Court. According to the option received from the petitioner and the similarly placed persons, it is for the department to decide after evaluating the inter-se seniority of the petitioner and the similarly placed persons as per the relevant service Rules.



6.We have heard the said submissions made by both sides and perused the materials placed before this Court.

7.The prayer sought for by the appellant/pettitioner before the Writ Court was to seek for a mandamus to consider the proposal sent by the second respondent for transferring him to the bifurcated district of the Tenkasi District, based upon the option exercised by him, the minimum reason for seeking for such a mandamus, according to the petitioner, was that during the pendency of the consideration of the proposal sent by the second respondent at the office of the first respondent, some transfer seems to have been given by which some juniors, according to the learned counsel for the petitioner, have already been transferred, that is the reason why, the prayer was sought for and the writ petition was moved.

8.When that being the position, the learned Judge has taken a view as if the petitioner, as a matter of right claiming posting to a particular place and that kind of transfer, as a matter of right cannot be claimed by the petitioner, therefore on that ground, as it is a prematured plea and hence, the writ petition was rejected.

9.After having considered all these aspects, we are of the considered view that the simple prayer sought for by the petitioner before the writ Court could have been considered and decided by giving Mandamus to the respondents to consider the proposal given by the second respondent to the first respondent, on merits and in accordance with law.

10.In that view of the matter this Court is inclined to pass the following order in this writ appeal.

'1.That the impugned order, dated 25.04.2022, for the aforestated reasons is set aside and the respondents, especially, the first respondent is hereby directed to consider the proposal sent by the second respondent dated 08.01.2020 and decide the same on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

2.It is made clear that when such a decision is taken by the first respondent, which including the decision with regard to the plea made by the petitioner for getting transfer to the bifurcated District, the seniority of the petitioner can also be decided, ofcourse without affecting the inter-se seniority between the similarly placed persons in the District as per the Service Rules.'



11. With these observations and directions, this writ appeal is ordered accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Vacation Officer

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// True Copy //

28/05/2022

Sub Assistant Registrar(CS)

VRN/PJL

To

1. The Commissioner,
Adi Dravidar Welfare Department,
Chepauk,
Chennai - 600 005.

2. The District Adi-Dravidar & Tribal Welfare Officer,
District Adi-Dravidar & Tribal Welfare Department,
Tirunelveli District,
Tirunelveli.

+1 CC to M/s.K. GURUNATHAN, Advocate (SR-24165[F] dated
26/05/2022)

+1 CC to M/s.SPL.GP (SR-24178[F] dated 27/05/2022)

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26.05.2022

MGJ(28.05.2022) 4P 5C