



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.11309 of 2021 and

W.M.P.(MD)No.8829 of 2021

WEB COPY

M.Salaivalarppan

... Petitioner

versus

The Superintending Engineer,
Highways Department,
Construction and Maintenance,
Tirunelveli.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records passed by the respondent herein in Se.Mu.Aa.No.17/2021/A4 dated 28.06.2021 and quash the same insofar as the petitioner is concerned.

For Petitioner : M/s.M.Padmavathy
For Respondent : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition is filed against the order of transfer dated 28.06.2021.

2. The petitioner was initially appointed as Salai Paniyalar on 10.11.1997. Subsequently, he was promoted and posted as Driver on 23.01.2015 in the office of Assistant Divisional Engineer, Rajapalayam Sub-Division, Virudhunagar District. While he was serving at Rajapalayam Sub-Division, the respondent, by order dated 28.06.2021, transferred him from Rajapalayam Sub-Division, Virudhunagar District to Sivagiri Sub-Division, Tenkasi District along with the jeep. Aggrieved by the same, the present writ petition has been filed.

3. The learned counsel for the petitioner further submits that the petitioner has been transferred from Virudhunagar to Tenkasi, in order to accommodate the employer of a private contractor.

4. Mr.Saji Bino, learned Special Government Pleader appearing for the respondent submits that the Contractor under Performance Based Maintenance Contract (PBMC) had been given jeeps for supervising the contractual works. Therefore, the departmental jeep was provided to the Contractor and the petitioner was



accommodated as Jeep Driver. Now, the contract itself is over and the Jeep was also surrendered and allotted to Sivagiri Sub-Division, Tenkasi District along with the driver. Therefore, the petitioner was also transferred along with the Jeep. The learned Special Government Pleader further submits that the petitioner cannot choose to remain in the same place for years together and the transfer is an incident of service.

5. This Court paid its anxious consideration to the rival submissions made.

6. The petitioner was initially appointed as Salai Paniyalaar on 10.11.1997. Subsequently, he was promoted and posted as Driver to the Jeep bearing Reg.No.TN20G 0230. The Jeep was allotted to the Contractor under Performance Based Maintenance Contract. After the completion of contract, the Jeep was also surrendered and allotted to Sivagiri Sub Division, Tenkasi District. Hence, the petitioner was transferred along with the Jeep. The transfer is an incident of service and it is also a condition of service. Therefore, this Court is not inclined to interfere with the impugned order of transfer. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ogy

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Superintending Engineer,
Highways Department,
Construction and Maintenance, Tirunelveli.
+1 CC to M/s.SPL.GP (SR-3727[F] dated 02/02/2022)

W.P(MD)No.11309 of 2021

01.02.2022