



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

**W.P. (MD) Nos. 11868 of 2021 and
W.M.P. (MD) Nos. 9310, 9313 and 13229 of 2021**

S.Saravanakumar

... Petitioner

Vs.

1. The Chief Engineer / Personnel (A/C),
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO),
8th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai - 600 002.
2. The Superintending Engineer,
Dindigul Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO),
Dindigul District.
3. The Executive Engineer,
Office of the Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO),
Oddanchathiram,
Dindigul District.
4. A.Gomathi,
Administrative Supervisor,
Office of the Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
(TANGEDCO),
Oddanhathiram,
Dindigul District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Memo No.016121/124/G.332/2021-2 dated 24.06.2021 on the file of the first respondent and quash the same as illegal and consequently direct the first and second respondents to consider the request of the petitioner for his transfer application dated 03.07.2020 and



02.01.2021 and transfer him to the office of the third respondent within a time period.

For Petitioner : Mr.T.Thirumurugan

For Respondent : Mr.S.Arivalagan for R1 to R3
Mr.S.Louis for R4

O R D E R

The order of transfer dated 24.06.2021 transferring the fourth respondent namely Gomathi from Palladam Electricity Distribution Circle to Dindigul Electricity Distribution Circle in the place of S.P.Karthy is under challenge in the present Writ Petition.

2. The petitioner is working as Administrative Supervisor and he is not a party to the impugned transfer proceedings. The grievances of the writ petitioner is that he has already submitted an application for transfer and instead of considering the said transfer application, the fourth respondent was considered and therefore, the petitioner is constrained to move the present Writ Petition.

3. The learned counsel for the petitioner further contended that the Chief Engineer is not a Competent Authority to effect the transfer and the Superintendent Engineer alone is competent to issue such transfer orders.

4. Transfer is an incidental to service, more so, a condition of service. When the transfers are not affecting the rights of an employee or violating the service conditions, the grounds raised in this regard are unsustainable. The superior officials are empowered to issue transfer in the interest of public administration. Therefore, the contention of the petitioner is that the Chief Engineer is not a competent to issue transfer orders deserves no merit consideration.

5. In respect of the said S.P.Karthy, who was transferred from Dindigul Electricity Distribution Circle, he has filed a Writ Petition in W.P. (MD) No. 11066 of 2021, challenging the very same transfer order dated 24.06.2021 and the said Writ Petition was dismissed by this Court on 24.03.2022. While so, the petitioner, who is not a party to the impugned transfer order, has no locus to challenge the same. If at all he made a request application for transfer, it is to be construed as a separate application which cannot be a ground for challenging the transfer order issued to the fourth respondent in the present Writ Petition.

6. 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 malafides 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.

7. 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.

8. 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.

9. The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which 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.

10. 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.

11. 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.

12. 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.

13. 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 right for the purpose of considering the relief.

14. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vji

To

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(TANGEDCO),
Oddanhathiram, Dindigul District.

+1 CC to M/s.S. LOUIS, Advocate (SR-17117[F] dated 07/04/2022)

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MGJ(27.04.2022) 5P 6C