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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.16675 of 2021 and
CONT.P(MD)No. 1375 of 2021 in
W.M.P.(MD)No.13550 of 2021 in
W.P(MD)No.16675 of 2021

and

W.M.P(MD)Nos.13549 of 2021 & 5205 of 2022

W.P.(MD)No.16675 of 2021

Aron K.Thiravia Raj, (ST.No.2205238),
Artisan Gr.I (Crane Opt) BPN/TP,
Bharat Heavy Electricals Limited(BHEL),
Tiruchirappalli

... Petitioner

vs.

1. The Manager, (HR-EE & CE),
Human Resource Management,
Bharat Heavy Electricals Limited(BHEL),
Tiruchirappalli

2. Mr.R.Arul Prakash,
The Manager, (HR-EE & CE),
Human Resource Management,
Bharat Heavy Electricals Limited(BHEL),
Tiruchirappalli

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records pertaining to the impugned order of transfer issued by the 1st respondent bearing No. HR CE IUT 2205238 dated 08.09.2021 and quash the same.

For Petitioner : M/s.S.Anwar Sameem

For Respondents : Mr.A.V.Arun

CONT.P(MD)No. 1375 of 2021

Aron K.Thiravia Raj, (ST.No.2205238),
Artisan Gr.I (Crane Opt) BPN/TP,
Bharat Heavy Electricals Limited(BHEL),
Tiruchirappalli

... Petitioner

vs.

Mr.R.Arul Prakash,
The Manager, (HR-EE & CE),
Human Resource Management,
Bharat Heavy Electricals Limited(BHEL),
Tiruchirappalli

... Contemnor/Respondent/
Respondent

PRAYER : Petition filed under Section 11 of the Contempt of Court Act, 1971, to summon the contemnor/respondent and to punish him as per law for having willfully disobeyed the direction of this Court in W.M.P.(MD)No.13550 of 2021 in W.P.(MD)No.16675 of 2021, dated 16.09.2021.

For Petitioner : M/s.S.Anwar Sameem



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COMMON ORDER

W.P.(MD)No.16675 of 2021 has been filed to quash the impugned transfer order issued by the 1st respondent bearing No. HR CE IUT 2205238 dated 08.09.2021.

CONT.P(MD)No. 1375 of 2021 has been filed to punish the Contemnor/respondent for having willfully disobeyed the direction of this Court in W.M.P.(MD)No.13550 of 2021 in W.P.(MD)No.16675 of 2021, dated 16.09.2021.

2. Heard both the writ petition and the contempt petition and perused the material documents available on record.

3. The petitioner has challenged the transfer order, whereby the petitioner was transferred to Goindwal, Punjab. This Court has granted interim stay on 16.09.2021 and based on the interim order the petitioner has not joined in the transferred place, but receiving salary.



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4. The contention of the petitioner is that, the petitioner in Union associated with the respondent industry and has raised several issues with the respondents. Hence the respondent has issued a transfer order to far of place. The contention of the respondents is that there was a request from the Punjab Unit for Crane operator, where the construction work is going on. Since the petitioner is being the Senior most Crane Operator he was transferred to the said place.

5. The Learned Counsel for the petitioner submitted that the petitioner is having health issues. The petitioner had stated in the affidavit that he is having two daughters, first daughter is studying 3rd year B.Com. and the 2nd daughter is studying plus 2, which is a public examination and at that stage he was not in a position to shift to Punjab. The petitioner was continuing in Trichy based on interim stay and his first daughter had completed B.Com. and his second daughter had completed the public examination.

6. The transfer is incidence of service and the claim of the petitioner was considered and an interim order of stay was granted. Now the petitioner



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cannot prolong the same status endlessly. Considering the facts of the case, this Court is inclined to pass the following order:

(i). The petitioner is directed to join in the transferred post in the Punjab unit, within a period of two weeks from the date of receipt of a copy of the order.

(ii) After completion of one year, the respondents are directed to pass transfer order, by transferring the petitioner from the Punjab Unit to the present Unit.

7(i). With the above directions, this Writ Petition is disposed of. No Costs. Consequently, connected Consequently, connected miscellaneous petitions are closed.

7(ii). Accordingly, this Contempt Petition is closed.

Index : Yes / No
Internet : Yes
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29.11.2022



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S.SRIMATHY, J

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Common Order in
W.P.(MD)No.16675 of 2021 and
CONT.P(MD)No. 1375 of 2021

29.11.2022