



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.22859 of 2021

and

W.M.P. (MD) Nos.19340 & 19341 of 2021

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K.S.Bhuvaneswari

... Petitioner

vs.

- 1.The Chief Engineer / Personnel
Tamil Nadu Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai
Tamil Nadu Electricity Board
Chennai-600 002
- 2.The Superintending Engineer / Distribution
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
Kanyakumari Electricity Distribution Circle
Nagercoil, Kanyakumari District
- 3.The Superintending Engineer / Distribution
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
Thirupathur Electricity Distribution Circle
Thirupathur Post & District-635 601
- 4.D.Ashokkumar
Administrative Supervisor
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board
Thirupathur Electricity Distribution Circle
Thirupathur Post & District-635 601

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records in pursuant to the impugned order passed by the 1st respondent in Memo No.077104/555/G.33/G.332/2021-1, dated 13.12.2021 and Memo No.077104/555/G.33/G.332/2021-2, dated 13.12.2021 and quash the same and consequently direct the respondents 1 and 2 to permit the petitioner to continue as Administrative Supervisor at Nagercoil Kanyakumari Electricity Distribution Circle .



For Petitioner : Mr.Saravanakumar.M.
For Respondents : Mr.S.Arivalagan for R1 to R3
Mr.C.Nandagopal for R4

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O R D E R

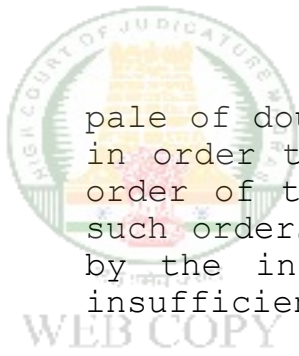
The transfer orders, dated 13.12.2021, passed by the first respondent, transferring the petitioner and the fourth respondent are under challenge in this writ petition.

2. The petitioner is working as Administrative Supervisor, which is a responsible position in the office of the Superintending Engineer. Admittedly, the petitioner has completed more than three years of service in the present Station. Whiles, the petitioner was transferred to Thirupathur Electricity Distribution Circle in the place of the fourth respondent and the fourth respondent was transferred from Thirupathur Electricity Distribution Circle and posted in the place of the petitioner.

3. The learned counsel for the petitioner made a submission that in order to entertain the request of the fourth respondent, the petitioner was disturbed unnecessarily. Therefore, the administrative reason stated in the impugned order is incorrect. The learned counsel for the petitioner relied on certain instructions and submitted that administrative transfers are to be issued rarely by recording reasons and in the present case, no such reason is recorded and therefore, the impugned orders of transfer are to be set aside.

4. The learned counsel appearing for the respondents 1 to 3 objected the said contentions by stating that the petitioner was transferred on administrative grounds and in her place, the fourth respondent was accommodated based on his request application. Therefore, two different aspects cannot be tagged by the petitioner as she was transferred on administrative convenience and therefore, the writ petition is to be rejected.

5. The petitioner has already completed the period of three years as per the transfer policy. The petitioner is working in a responsible position as Administrative Supervisor and therefore, she is liable to be transferred periodically as per the transfer policy of the TANGEDCO. No doubt, the petitioner was transferred on the ground administrative convenience. The fourth respondent was transferred based on his request application. However, this cannot be said to be irregular. If at all an officer is transferred to another place on administrative grounds and in his place another employee can be accommodated on request or otherwise and such consequential transfer cannot be construed as *mala fide* or intentional unless any such allegations are established beyond any



pale of doubt. A mere statement that the petitioner was transferred in order to accommodate the fourth respondent is insufficient. An order of transfer can be interfered with by the High Court only if such orders are tainted with the allegation of mala fides or issued by the incompetent Authority and therefore, a mere statement is insufficient.

6. Administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with a mala fide intention or in violation of the statutory rules, then a writ petition can be entertained. Even in such cases, the allegation of mala fide intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service and transfer being incidental, he must be in a position to work, wherever he is posted.

7. Place or post can never be claimed as a matter of choice by the public servants. All public servants are duty bound to perform their duties diligently and with utmost care and devotion. These being the basic principles to be followed, erosion in this regard can never be tolerated either by the officials or by the Courts. High Court cannot interfere with the routine administration of the State or its organization. In the event of such routine interference in administration, more specifically, in transfer cases, the very discipline and the functioning of the administration would be paralyzed. Thus, the judicial review of administrative transfers must be exercised with restraint and only on exceptional circumstances, such orders of transfers can be interfered with by the High Courts and not otherwise. This being the scope of the judicial review of administrative transfers issued by the competent authorities, this Court is of an undoubted opinion that the writ petitioner has not established any such acceptable ground for the purpose of interference in the order of transfer.

8. In view of the above facts and circumstances, the petitioner has not made out any acceptable grounds for granting the relief as prayed for. If at all any grievance still exists, it is left open to the petitioner to approach the Competent Authority and redress her grievance in the manner known to law.



9. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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+1 CC to M/s.C.NANDAGOPAL, Advocate (SR-21659[F] dated 27/04/2022)

+1 CC to M/s.M. SARAVANAKUMAR, Advocate (SR-21720[F] dated
27/04/2022)

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MK/16.05.2022/4P/6C