



W.P. No. 10652 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 10652 of 2023

and

W.M.P. No.10579 of 2023

K.Venkatesan

... Petitioner

-VS-

- 1 The Chief Engineer
Tamil Nadu Generation and Distribution
Corporation(TANGEDCO) Administrative Branch
N.P.K.R.R.Maaligai 144 Anna Salai
Chennai - 600 002.
 - 2 The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation(TANGEDCO) Thirupathur
Electricity Distribution Circle Thirupathur
Thirupathur District.
 - 3 The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation(TANGEDCO) Cuddalore Electricity
Distribution Circle Cuddalore Cuddalore
District.
- Respondents

...



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, Calling for the entire records relating to the Impugned Order of Transfer vide Memorandum No. 019873/G.11/G.111/2023 dated 20.03.2023 issued by the 1st respondent so as to enable the petitioner to work as Junior Engineer Grade-I Thirupattur Electricity Distribution Circle at Ambur and quash the same.

For Petitioner : Mr. K.Premkumar

For Respondents : Mr. K.Rajkumar
Standing Counsel

ORDER

Heard Mr. K.Premkumar, Learned Counsel for the Petitioner, Mr. K.Rajkumar, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, while working as Junior Engineer, Electrical Grade-I, O&M, Ambur Town, Tirupattur Electricity Distribution Circle in the service of the Respondents has been transferred from Ambur to Cuddalore Electricity Distribution Circle Centre by Memorandum No.019873/G/11/G.111.2023 dated 20.03.2023 passed by the First



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Respondent. He had made a representation dated 30.03.2023 to the First Respondent seeking re-consideration of the said order of transfer citing the treatment required to be taken by him at Vellore for his existing health condition, but as it did not evoke any response, this Writ Petition has been filed challenging the said order of transfer.

3. The legal position relating to the scope of interference of the Court on transfers in public employment under Article 226 of the Constitution has been well settled as reflected in the following extracts from the rulings of the Hon'ble Supreme Court of India:-

(i) ***Mrs. Shilpi Bose -vs- State of Bihar*** [(1992) SCC (L&S) 127]:

“ In our opinion, the Courts should not interfere with transfer orders which are made in public interest and for administrative reason unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at a place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not



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violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order, instead the affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day to day transfer orders passed by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest.”

(ii) ***Union of India -vs- S.L.Abbas*** [(1994) SCC (L&S) 230]:

“ Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions the Court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly, if a person makes any representation with respect to his transfer, the appropriate authority must



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consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however, does not confer upon the Government employee a legally enforceable right.”

(iii) ***State of Punjab -vs- Joginder Singh Dhatt*** [(1994) SCC (L&S) 230]:

“ This Court has time and again expressed its disapproval of the Courts below interfering with the order of transfer of a public servant from one place to another. It is entirely for the employer to decide when, where and what point of time a public servant is to be transferred from his present posting. Ordinarily the Courts have no jurisdiction to interfere with the order of transfer. The High Court grossly erred in quashing the order of transfer of the respondent from Hoshiarpur to Sangrur. The High Court was not justified in extending its jurisdiction under Article 226 of the Constitution of India in a matter where, on the face of it, no injustice was caused.”

(iv) ***Abani Kanta Ray -vs- State of Orissa*** [(1996) SCC (L&S) 175]:



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“ It is settled law that a transfer which is an incident of service is not to be interfered with by the Courts unless it is shown to be clearly vitiated by mala fides or infraction of any professed norm or principle governing the transfer.”

Having due regard to the aforesaid dictum laid down in the binding decisions, it is not possible to entertain the challenge made to the impugned order of transfer, but it shall be incumbent upon the concerned authority to examine his representation dated 30.03.2023 to re-consider the order of transfer with reference to his health condition.

4. In such circumstances, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioner, passes the following order:-

- (i) the concerned authority shall immediately examine the representation dated 30.03.2023 made by the Petitioner citing health reasons supported by medical records including ascertaining as to whether the Petitioner would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the



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Petitioner requiring the same to be furnished within a time frame of not less than 2 working days for the same;

- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner to explain his position in that regard;
- (iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated within a period of 30 days from the date of receipt of a copy of this order under written acknowledgment; and
- (v) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

06.04.2023

kst

Index: Yes/No

NCC : Yes/No

Note: Issue order copy by 16.06.2023.



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To

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Copy to

The Registrar (Judicial)
Madras High Court
Chennai – 600104.



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P.D. AUDIKESAVALU, J.

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