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W.P.Nos.33737 and 33738 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.33737 and 33738 of 2014
and M.P.Nos.2, 2 of 2014 and 1, 1 of 2015

1. S.Moorthy	... Petitioner in W.P.No.33737 of 2014
2. S.Subash	... Petitioner in W.P.No. 33738 of
2014	

-Vs-

1. The Management of Tamil Nadu
Civil Supplies Corporation,
represented by its Regional Manager,
Old No.42, New No.12,
Thambu Samy Road,
Kilpauk, Chennai-600 010.
2. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Old No.42, New No.12,
Thambu Samy Road,
Kilpauk, Chennai.
3. R.Kamaraj
Minister for Food, Civil Supplies,
Consumer Protection and Price Control,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.



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4. R.Mathiarasan

Regional Secretary,
Tamil Nadu Nugarporul Vanibha Kazhagam,
Anna Thozhirsangam (Pudukottai Region),
affiliated to Anna Thozhirsanga Peravai,
Regional Office,
Tamil Nadu Civil Supplies Corporation,
Kalyana Rama Puram,
1st Street, Thirukokaranam,
Pudukkottai-622 001.

5. R.Purushothaman

Regional Treasurer,
Tamil Nadu Nugarporul Vanibha Kazhagam,
Anna Thozhirsangam (Pudukottai Region),
affiliated to Anna Thozhirsanga Peravai,
Regional Office,
Tamil Nadu Civil Supplies Corporation,
Kalyana Rama Puram,
1st Street, Thirukokaranam,
Pudukkottai-622 001.

6. M.Chandrasekaran I.A.S,

Managing Director,
Tamil Nadu Civil Supplies Corporation,
Old No.42, New No.12,
Thambu Samy Road,
Kilpauk, Chennai-600 010.

... Respondents **in both W.Ps**

Prayer in W.P.No.33737 of 2014:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records of the respondents 1 and 2 in connection with the order of transfer bearing Reference No. AE5/191/2014-(3) dated 01.12.2014 and quash the same.



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Prayer in W.P.No.33738 of 2014:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records of the respondents 1 and 2 in connection with the order of transfer bearing Reference No. AE5/191/2014-(1) dated 01.12.2014 and quash the same.

In both W.Ps

For Petitioners : Mr.Gautham S.Raman
for Mr.K.Sudalai Kannu

For Respondents
R1 and R2 : Ms.Hymavathi
for Mr.C.Selvaraj
R3 to R6 : Notice served
No appearance

COMMON ORDER

These Writ Petitions have been filed for the issuance of Writ of Certiorari, calling for the records of the respondents 1 and 2 in connection with the order of transfer bearing Reference Nos. AE5/191/2014-(3) and AE5/191/2014-(1) dated 01.12.2014 and to quash the same.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondents 1 and 2 and perused the materials available on record.



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3. The petitioner in W.P.No.33737 of 2014 is working as a Junior Assistant and the petitioner in W.P.No.33738 of 2014 is working as an Assistant in the first respondent Corporation. Both the petitioners belong to a recognized Union i.e, Tamil Nadu Civil Supplies Corporation Employees Union, which is affiliated to Labour Progressive Federation. As per G.O.Ms.457 Department of Public dated 04.06.2006, the Government has framed a policy as to whose photograph has to be kept in the Government Offices. Based on which the circulars were issued on 30.12.2009, 17.12.2011 and 15.09.2014, by the first respondent wherein it has been laid down as to whose photographs has to be kept in the office of the first respondent Corporation, which are extracted hereunder:-

- “ 1. *President of India*
2. *Prime Minister of India*
3. *Shri. Mahatma Gandhi*
4. *Jawaharlal Nehru*
5. *Tiruvalluvar*
6. *Peraringnar Anna*
7. *Perunthalaivar Kamarajar*
8. *Mootharingnar Rajaji*
9. *Thanthai Periyar*
10. *Dr.B.R.Ambedkar*
11. *Pasumpon Muthuramalinga Devar*
12. *Thiru. V.O.Chithambaranar*
13. *Thiru. Kaithemillath*
14. *India Gandhi*



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15. Former Chief Ministers

16. Chief Minister

4. Therefore, the petitioners' Union displayed the photograph of former Chief Minister “Shri M.Karunanithi” in the Regional Office. Similarly, the photograph of former Chief Minister Selvi.J.Jayalalitha is also displayed. Therefore, the post Union leaders made a representation to the Hon'ble Minister for Department of Food, Civil Supplies, Consumer Protection and Price Control, namely, the third respondent herein. Accordingly, the first and second respondents recommended for transfer of the petitioners from Pudukkottai to Villupuram District.

5. The learned counsel for the petitioners submitted that the impugned orders of transfer is nothing but punishment and it is unfair labour practice. Even till today, no charge has been framed as against the petitioners and no disciplinary action has been taken as against the petitioners. After an interim order of stay granted by this Court, the petitioners are continuing their respective posts in the Pudukkotai region.



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6. A perusal of the counter filed by the respondents revealed that the petitioners had committed certain acts of unbecoming attitude. During the office hours, on 03.11.2014, they entered into the rooms of the officials including the Chamber of the Regional Manager forcibly and exhibited the photograph of former Chief Minister Shri M.Karunanithi, without any prior permission from the Regional Manager to whose control the petitioners and other office bearers are working. As per the circular, the administration has to decide as to whose photograph is to be exhibited in the office and no employee has right to display photographs on their own accord without any prior permission of the management. The petitioners without any permission, they themselves have taken the power of administration and exhibited photograph of former Chief Minister of Tamil Nadu. Therefore, they created unrest atmosphere among the staff and other Union in the Regional Office, Pudukkottai, by exhibiting photograph of former Chief Minister. Therefore, on receipt of the complaint from the Regional Manager, Pudukkottai, against the petitioners, the second respondent having been vested with power to transfer an employee from one region to another region, transferred the petitioners to other regions, namely, Ramanathapuram, Madurai and



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Villupuram regions on administrative grounds in the existing vacancies.

In pursuant to the said order, the Regional Manager, Pudukkottai passed relieving order dated 09.12.2014 relieving the petitioners from Pudukkottai region. However, they approached this Court and obtained an interim order of stay. Even till today, they are continuing in their respective posts in the Pudukkottai region.

7. Entering into the office of the Regional Manager by the Junior Assistant would not amount to trespass. Further, even assuming that the act of the petitioners would amount to trespass, so far no police complaint was lodged as against the petitioners and no disciplinary proceedings are initiated as against the petitioners, except the order of transfer. If at all, the petitioners have violated any circular or Government Order by exhibiting photographs of the former Chief Minister of Tamil Nadu, in the office of the Regional Manager, the respondents ought to have initiated the disciplinary proceedings as against the petitioners in accordance with law, instead of transferring them. Therefore, it is nothing but unfair labour practice and punitive in nature. That apart, the petitioners are still continuing in the same region in their respective posts



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for a period of nine years from the date of their transfer.

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8. Therefore, the impugned orders passed by the respondents 1 and 2 cannot be sustained and are liable to be quashed. Accordingly, the orders of transfer bearing Reference Nos. AE5/191/2014-(3) and AE5/191/2014-(1) dated 01.12.2014 are hereby quashed.

9. Accordingly, these writ petitions are allowed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

17.07.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
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To

1. The Management of Tamil Nadu
Civil Supplies Corporation,
represented by its Regional Manager,
Old No.42, New No.12,
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Kilpauk, Chennai-600 010.
2. The Managing Director,
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Old No.42, New No.12,
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G.K.ILANTHIRAIYAN, J.

mn

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