



WEB COPY



W.P.No.25718 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.25718 of 2023 & WMP.No.25149 of 2023

M.Raaju

... Petitioner

Vs

1. The Chief Engineer, Personnel,
TANGEDCO, Administrative Branch,
N.P.K.R.R. Maligai,
No.144, Anna Salai, Chennai – 600 002.

2. The Superintending Engineer,
Tirupattur Electricity Distribution Circle,
TANGEDCO, TS Balammal Colony,
Tirupattur – 635 601.

3. The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
TANGEDCO.

4. The Assistant Executive Engineer – East,
Tirupattur Sub Division, Vengalapuram,
Tirupattur.

... Respondents



W.P.No.25718 of 2023

Prayer :- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the impugned transfer order issued to the petitioner by the first respondent dated 14.08.2023 vide Memo No. 047365 /G.11/ G.111 / 2023 and quash the same.

For Petitioner : Mr.P.Magesh

For Respondents : Mr.K.Rajkumar

ORDER

This Writ Petition has been filed to quash the impugned transfer order issued to the petitioner by the first respondent dated 14.08.2023 and to direct the respondents to confer all consequential service and monetary benefits to the petitioner.

2. The Petitioner was posted as Junior Engineer at Mittur Section Office of TANGEDCO on 31.07.2020. Since the petitioner joined in the said office, the petitioner noticed several discrepancies, the petitioner, in fact had given complaint to the Vigilance Department alleging corrupt practices of superior officers. Therefore, the superior officers continued



W.P.No.25718 of 2023

WEB COPY

to have a grudge against the Petitioner. Therefore, he was served with a transfer order dated 14.08.2023. Hence it is the contention that the entire transfer is punitive with motive.

3. The respondents filed a counter denying the entire allegation. The petitioner is in the habit of harassing the consumers and several complaints have been received against him. Therefore, the impugned transfer Order has been issued. But the Petitioner instead of joining the said place has brought pressure on the superiors and filed the Writ Petition. Hence, as per the allegations the Petitioner, he has been transferred. Departmental proceedings have also already initiated against the petitioner. Hence, opposed the writ petition.

4. It is the main contention of the learned counsel for the Writ Petitioner is that as the petitioner was recommending action against the corrupt staff and used to demand explanation for corruption, the second respondent, out of vengeance, instead of taking action on the complaints of corrupt practices has turned against the petitioner and the impugned



W.P.No.25718 of 2023

transfer order has been issued. Hence it is his contention that the transfer order has not been made on administrative reasons, it only malafide and punitive nature, since the petitioner has made serious allegations against the superior officials.

5. Whereas the learned counsel appearing for the Respondents would submit that the allegations made by the Writ Petitioner is only to prevent the superior officials from taking any action against him. Disciplinary proceedings is already pending against the petitioner. Hence it is their contention that the entire allegations are malafide and they are only made to safeguard the petitioner. Hence opposed the Writ Petition.

6. I have perused the entire materials. Though the allegation of malafide has been raised in the Writ Petition, on the perusal of the same, makes it very clear that except the general allegation of corrupt practices and malice no specific instances was brought on record and no evidences whatsoever placed on record to substantiate the allegations. It is the



W.P.No.25718 of 2023

person making the allegation of malafide, the onus lies on him to prove it. The law imposes upon the person levelling allegation of malafide to discharge the burden of proving such malafide action by producing the requisite materials. [vide **State of UP v. Gobardhan Lal [(2004) 11 SCC 402]**. In the instant case, the petitioner has failed to discharge his burden to prove such allegations of malafide by producing requisite materials or to demonstrate the same either by admitted or proved facts.

7. On the other hand, the reason assigned by the respondents for the transfer of the petitioner has justification. Therefore, the contention of the petitioner that the impugned order of transfer and posting was malafide and punitive cannot be countenanced. A Government servant has no vested right to remain posted at a place of his choice or nor can he insist that he must be posted at one place or the other unless such a transfer is vitiated by violation of any statutory provision or suffers from malafides. Transfer of an employee is not only an incident inherent in terms of the appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. I take



W.P.No.25718 of 2023

support to the above observations from the judgments of the Supreme Court in *Rajendra Singh and others v. State of Uttar Pradesh and others* [(2009) 15 SCC 178] and *U.P. v. Gobardhan Lal* [(2004) 11 SCC 402].

8. The counter filed by the respondents make it very clear that disciplinary proceeding is pending against the Petitioner. Though in the order it is stated as 'administrative reasons' it cannot be held to be a punitive one. The transfer in the nature of the allegation against the petitioner is quite in fact, warranted. The petitioner, as a matter of right cannot continue in the same place. Once the petitioner entered into the Government service he has no choice of posting. He is at the disposal of the Government. The competent authority has a power to decide the transfer based on various other circumstances, even to avoid untoward incidents or untoward hardship for smooth functioning of the office. Hence, I do not find any merits in the Writ Petition.



W.P.No.25718 of 2023

WEB COPY

9. Accordingly, this Writ Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

29.09.2023

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

1. The Chief Engineer, Personnel,
TANGEDCO, Administrative Branch,
N.P.K.R.R. Maligai,
No.144, Anna Salai, Chennai – 600 002.
2. The Superintending Engineer,
Tirupattur Electricity Distribution Circle,
TANGEDCO, TS Balammal Colony,
Tirupattur – 635 601.
3. The Superintending Engineer,
Krishnagiri Electricity Distribution Circle,
TANGEDCO.
4. The Assistant Executive Engineer – East,
Tirupattur Sub Division, Vengalapuram,
Tirupattur.



WEB COPY



W.P.No.25718 of 2023

N.SATHISH KUMAR, J.

VTC

W.P.No.25718 of 2023

29.09.2023