



W.P.No.30810 of 2023

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M.S.RAMESH, J.

This writ petition is listed today under the caption “For Being Mentioned” at the instance of learned counsel for the petitioner.

2. Heard the learned counsel for the petitioner. Considering the submissions made, this Court directs the Registry to make the following corrections in the order dated 15.11.2023 and issue fresh order copy:

i) The words in the second sentence of paragraph 8 of the order dated 15.11.2023, namely “Superintending Engineer, Coimbatore EDC/North/Coimbatore -12’ shall be read as “third respondent”.

ii) In the prayer, the words “Writ of Mandamus”, shall be read as “Writ of Certiorarified Mandamus”.

14.12.2023

gpa

Note: Issue order copy on 15.12.2023



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M.S.RAMESH.J.,

gpa

W.P.No.30810 of 2023

14.12.2023



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.30810 of 2023

and

W.M.P.Nos.30486 and 30487 of 2023

V.Suresh

... Petitioner

Vs.

1.The Chairman -cum- Managing Director,
Tamil Nadu Generation and Distribution Corporation Limited,
N.P.K.R.R. Maaligai,
144, Anna Salai,
Chennai – 600 002.

2.The Chief Engineer / Personnel,
Administrative Branch,
Tamil Nadu Generation and Distribution Corporation Limited,
N.P.K.R.R. Maaligai,
144, Anna Salai,
Chennai – 600 002.

3.The Superintending Engineer,
Generation Circle,
Tamil Nadu Generation and Distribution Corporation Limited,
Kundah,
Nilgiris – 643 219.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, calling for the records pertaining to the impugned order passed by the Chief Engineer / Personnel, Administrative



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Branch, N.P.K.R.R. Maaligai, 144, Anna Salai, Chennai – 600 002
Second respondent herein made in Memo No.046379/G.11/G.111/2023-1, dated 11.09.2023 made based on the alleged individual representation received though the Third Respondent herein and quash the said order insofar the petitioner herein is concerned and consequently direct the third respondent herein to issue the relieving letter so as to enable the petitioner herein to join in his new posting as per his transfer vide Memo No.016472/1246/ Adm1/A2/F.RTA/D.No.1917/2022, dated 29.11.2022 passed by the Superintending Engineer, CEDC, North, Coimbatore – 12.

For Petitioner : Mr.N.Damodaran

For Respondents : Mr.David Sundar Singh,
Standing Counsel

ORDER

Heard Mr.N.Damodaran, learned counsel for the petitioner and Mr.David Sundar Singh, learned Standing Counsel appearing for the respondents.

2. The petitioner, while serving as Assistant Engineer in the Electricity Generation Circle, Kundah was transferred and allotted to Coimbatore EDC/ North/ Coimbatore and reposted as AE/O&M/ Narasimmanaickenpalayam through an order dated 29.11.2022 by the Superintending Engineer, Coimbatore EDC/ North/ Coimbatore-12. Thereafter, the petitioner had applied for medical leave on various dates and through an order dated 11.09.2023, his earlier order of transfer has



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been cancelled by stating that such transfer was at his request.

Challenging the said order of cancellation of his transfer, the present Writ Petition has been filed.

2. The learned counsel for the petitioner submitted that he is willing to abide by the order of transfer and that he would join at Coimbatore EDC/ North/ Coimbatore, as ordered by the Superintending Engineer, Coimbatore EDC / North/ Coimbatore-12 on 29.11.2022. It is also the case of the petitioner that the cancellation was not at his request and that he was always willing to join at Coimbatore EDC/ North/ Coimbatore.

3. *Per contra*, the learned Senior Counsel appearing for the respondents submits that after the order of transfer was passed on 29.11.2022, the petitioner had been continuously absent for various dates and therefore, if the order of transfer is implemented and he is relieved from Kundah, they shall not be in a position to take action against him for his unauthorized absence.

4. In the Memo No.07028/நபி.3/உ.3/கோ.தனி/2023 dated 10.07.2023 issued by the Superintending Engineer, Punal Electricity



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Generation Circle, Kundah, it is seen that the petitioner had been absent and his absence was also recorded in the following manner:-

Sl.No	Period / regulation of leave	Report of the Medical Board
1.	04.03.2022 to 28.03.2022 (25 days)	The petitioner had failed to appear before the Medical Board
2.	29.03.2022 to 22.04.2022 (25 days)	The petitioner had failed to appear before the Medical Board
3	17.12.2022 to 25.12.2022 (9 days)	Compensatory leave and temporary leave (unauthorized absent)
4.	21.01.2023 to 19.02.2023 (30 days)	Report of the Medical Board stating that the petitioner did not appear before the Medical Board
5.	20.02.2023 to 21.03.2023 (30 days)	Report of the Medical Board stating that the petitioner did not appear before the Medical Board
6.	22.03.2023 to 19.04.2023 (29 days)	Report of the Medical Board stating that the petitioner did not appear before the Medical Board
7.	20.04.2023 to 19.05.2023 (30 days)	Report of the Medical Board stating that the petitioner did not appear before the Medical Board
8.	20.05.2023 to 18.06.2023 (30 days)	Report of the Medical Board stating that the petitioner did not appear before the Medical Board
9.	19.06.2023 to 18.07.2023 (30 days)	-



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5. From the aforesaid periods of leave / absence, it seen that apart from Sl.No.3, on which the petitioner's absence between 17.12.2022 to 25.02.2022, he had not sought for any permission and was unauthorizedly absent. Likewise, Sl.No.9 is for the period between 19.06.2023 to 18.07.2023, it has not been supplied. Apart from these periods of absence, the rest of the petitioner's absence has been regulated either under leave on loss of pay or on medical leave. The only apprehension of the respondents is that if the petitioner is transferred from one circle to another, they may not be in a position to take disciplinary action against him for his period of absence.

6. I am not in agreement with such a submission. There is no regulation which can stand embargo for the TANGEDCO to dis-entitle or prevent them from taking action against the employees from one circle to another. The regulation for all the staffs of TANGEDCO, can be regulated and governed by the Chief Engineer/ Personnel, who will always have the authority to grant permission for such disciplinary action for a person, who has been transferred from one circle to another. Thus, merely on the ground that if the petitioner is relieved from his original



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place, they would not be in a position to initiate disciplinary proceedings against the concerned person may not be a sustainable ground. Apart from this, no serious objections have been raised by the respondents for relieving and transferring the petitioner from Kundah to Coimbatore Circle.

7. This Court is of the view that liberty can be granted to the respondents to initiate disciplinary action against the petitioner for the unauthorized absence, if they choose to do so, in accordance with the service regulations and thereby, direct the respondents to relieve the petitioner and enable him to join at Coimbatore.

8. Accordingly, the impugned order of cancellation dated 11.09.2023, insofar as it relates to Sl.No.26, V.Suresh / petitioner herein, is quashed. Consequently, there shall be a direction to the Superintending Engineer, Coimbatore EDC / North/ Coimbatore-12 to relieve the petitioner from the post of Assistant Engineer, Electricity Generation Circle, Kundah and pass such orders, allotting him to Coimbatore EDC/ North/ Coimbatore and repost him as AE/O&M/ Narasimmanaickenpalayam. Such orders shall be passed within a period



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15.11.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

- 1.The Chairman -cum- Managing Director,
Tamil Nadu General and Distribution Corporation Limited,
N.P.K.R.R. Maaligai,
144, Anna Salai, Chennai – 600 002.
- 2.The Chief Engineer / Personnel,
Administrative Branch,
Tamil Nadu Generation and Distribution Corporation Limited,
N.P.K.R.R. Maaligai,
144, Anna Salai,
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