



W.P.(MD).No.16788 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.16788 of 2019
and
W.M.P.(MD).No.13389 of 2019**

M.Ramadoss

... Petitioner

Vs.

1.The Deputy Commissioner of Labour,
(Appellate Authority under Stamps and
Establishments Act, 1947),
Tirunelveli.

2.The General Manager,
The Chennai Silks,
74-C, New Market Street,
Tiruppur – 641 604.

3.The Branch Manager,
The Chennai Silks,
177, A-2, Vannarapettai,
Tirunelveli – 627 003.

4.The Managing Director,
The Chennai Silks,
558-560, Oppanakara Street,
Coimbatore – 641 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the impugned



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order of dismissal of appeal in case number TNSEA 3 of 2016 dated 22.05.2019 and quash the same as illegal and arbitrary and consequently direct the respondents to permit the petitioner to continue his service in the third respondent Management with all service and monetary benefits.

For Petitioner : Mr.D.Srinivasa Ragavan

For R-1 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-2 to R-4 : Mr.G.Manivannan

ORDER

This Writ Petition is filed to quash the order dated 22.05.2019 with a consequential relief to continue in service with all service and monetary benefits.

2. The petitioner was appointed in the second respondent Shop, Tiruppur. Subsequently, the petitioner has submitted a representation to the second respondent to accommodate him in Tirunelveli, since his native is near Tirunelveli, accepting the same the respondents have accommodated the petitioner in Tirunelveli Region. After some time, due to surplus employees in the Tirunelveli the respondents have transferred 4 employees, who were serving



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as Cashier, to Tiruppur unit. Except the petitioner, other 3 persons obeyed the order and joined in Tiruppur unit, but the petitioner did not join. However, he filed an application before the Tamil Nadu Shops and Establishment Act, stating that the respondents have not allowed the petitioner to join the duty. The first respondent authority after analyzing the issue and after perusing the evidence has come to the conclusion that the respondents have not denied the employment to the petitioner but transferred the petitioner to some other unit. Since the petitioner has not joined in the transferred post, the respondents have initiated disciplinary proceedings. Therefore, the authority has come to the conclusion that the petition is premature petition and dismissed the same. Aggrieved over the said dismissal, the petitioner is before this Court.

3. The respondents have filed a counter stating that the petitioner did not obey the transfer order. Hence, they have initiated disciplinary proceedings. If the petitioner is intended to join, now also the respondents would accommodate the petitioner, but only in the transferred post, since there are no vacancies in Tirunelveli. Infact the very transfer itself is to transfer the excess employees to other units. Therefore, the petitioner cannot challenge the transfer order, which is incident to service. Thus, the authority has come to the correct conclusion.



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4. Therefore, the petitioner is directed to join Coimbatore within a period of one (1) week from the date of receipt of a copy of this order. However, the petitioner is at liberty to submit a representation to the third respondent to accommodate him in Tirunelveli Unit itself, since his native is in Sankarankovil. The third respondent after receipt of such representation shall consider and accommodate the petitioner as and when the vacancy arises.

5. With the above direction, this Writ Petition is disposed of. As far as other benefits are concerned, the petitioner is entitled to reinstatement with continuity of service, since the petitioner has refused to join the transfer place, the petitioner is not entitled to backwages. No costs. Consequently, connected miscellaneous petition is closed.

12.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To



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S.SRIMATHY, J.

Nsr

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