



W.P(MD).No.18886 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 21.11.2023

ORDER PRONOUNCED ON : 29.11.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.18886 of 2023
and W.M.P(MD).No.15690 of 2023**

K.Mahalingam

....Petitioner

Vs

1.The Superintendent Engineer
Ramanathapuram Electricity Distribution Circle
Tamil Nadu Generation & Distribution Corporation Ltd.(TANGEDCO)
Ramanathapuram District

2.The Executive Engineer /Distribution
Ramanathapuram Electricity Distribution Circle
Tamil Nadu Generation & Distribution Corporation Ltd (TANGEDCO)
Ramanathapuram District

3.The Assistant Executive Engineer/Distribution
Thiruvadanai
Ramanathapuram Electricity Distribution Circle
Tamil Nadu Generation & Distribution Corporation Ltd.(TANGEDCO)
Ramanathapuram District

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings bearing Ku.No.Vu.Se.Po/ViNi/Ram/U.Ni.A./Ni.Ma/Ni.U. 2/Ko.Kattu/A.No.73/2023 dated 26.07.2023 on the file of the second



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respondent and subsequent order in Koo.No.004203/Ni.A./NiPi.1/U2/Ko.Kattu/2023-1 dated 26.07.2023 on the file of the first respondent and quash both the said impugned orders and further direct the respondents to permit the petitioner to continue working at office of the 3rd respondent.

For Petitioner : Mr.Nassir Hissain
Senior Counsel
For Mr.R.M.Makesh Kumaravel
For Respondents : M/s.M.Parameshwari
Standing Counsel

ORDER

The present writ petition has been filed by a Foreman Grade-I working in TANGEDCO challenging the order of transfer dated 26.07.2023 and seeking a direction to the respondents to permit the petitioner to continue to work in the office of the third respondent.

2.According to the learned Senior Counsel appearing for the writ petitioner, the petitioner was suspended on certain charges on 04.07.2023 and a charge memo came to be issued on 12.07.2023.Under the impugned order dated 26.07.2023, the suspension order was revoked and the petitioner was transferred from Thiruvadanai to Paramakudi substation.

3.The learned Senior Counsel challenges the said order of transfer primarily on the ground that it is a punitive in nature in view of the fact that a charge memo has been issued and immediately after revocation of



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suspension, a transfer order has been issued. He had further contended that as far as this cadre of employees are concerned, they could be transferred only on promotion. He had further contended that the circular dated 20.01.2021 relied upon by the standing counsel for the respondents is not applicable to the present facts of the case. The said circular is only a guideline which says that the employees whose suspension was revoked, could be accommodated in the non-sensitive post till conclusion of such proceedings. The petitioner can very well be accommodated in a non-sensitive post at Thiruvadanai itself.

4.The learned Senior Counsel had further contended that the petitioner being a Foreman Grade-I wherever he goes, he would perform the same job. Therefore, the question of sensitive and non-sensitive post does not arise. Hence, he prayed for setting aside the impugned order and retain the petitioner at Thiruvandanai.

5.The learned Standing Counsel appearing for the respondents had relied upon the charge memo dated 12.07.2003 and contended that the petitioner had removed the meter from one of the houses and he has installed the same in his relatives house and therefore, the petitioner can never be permitted to continue at Thiruvadanai pending disciplinary proceedings. She had further contended that the petitioner has been posted to a substation at Paramakudi where he will not have any link with general public, but it will be a table work in the substation. Only considering those facts, the petitioner has



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been transferred from Thiruvadanai to Paramakudi. Hence, he prayed for dismissal of the writ petition.

6.I have considered the submissions made on either side and perused the material records.

7.The respondents authorities have issued a composite order on 26.07.2023 revoking the order of suspension and transferring the petitioner from Thiruvandanai to Paramakudi substation. Paramakudi is located approximately 20 km from Thiruvadanai. The Corporation has originally suspended the petitioner and issued a charge memo on 12.07.2003 but ultimately the suspension order has been revoked and the petitionier has been permitted to join duty at Paramakudi substaiton. If the petitioner is permitted to continue at Thiruvadanai, that will hamper the disciplinary proceedings. Therefore, this Court is of the considered opinion that the transfer order issued by the Corporation is only pending enquiry and the same cannot be considered to be punitive.

8.As per circular in Memo No.074540/823/G.7/G.71/2020-4 dated 20.01.2021, whenever the suspension order is revoked in respect of regular work employees, they have to be accommodated in a non-sensitive post till the conclusion of such proceedings. As rightly pointed by the learned Standing Counsel appearing for the respondent corporation, the petitioner has been transferred to Paramakudi substation where it is a table work and he will



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not have any contact with the general public. Therefore, the contention of the learned Senior Counsel appearing for the petitioner that the Foreman Grade -I will be doing the same work wherever he is posted cannot be countenanced. Permitting the petitioner to be at Thiruvadanai would not be conducive for finalisation of the disciplinary proceedings. The petitioner has not been posted to far away place, but only a place which is 20 km away from his original post. Therefore, this Court is of the considered opinion that the petitioner has not made out any grounds to set aside the order of transfer.

9.In view of the above said deliberations, there are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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