



W.P.(MD).No.26283 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26283 of 2023
and
W.M.P(MD) Nos.22628 and 22629 of 2023

R.Jeyakumar

... Petitioner

Vs.

1. The Secretary to Government for
Commercial Taxes Department,
Secretariat, St.George Fort,
Chennai – 600 009.
2. The Commissioner,
Office of the Commercial Taxes Department,
Elizhagam, Chepauk,
Chennai – 600 005.
3. The Joint Commissioner (Admin)
Office of the Principal Secretary/
Commissioner to Commercial Taxes Department,
Elizhagam,
Chepauk, Chennai – 600 005.
4. The Joint Commissioner (ST)
Madurai Division,
CT.Complex,
Dr.Thangaraj Salai,
Madurai – 625 020.



W.P.(MD).No.26283 of 2023

WEB COPY

5. The Deputy Commissioner (ST) Sivagangai Office,
EB Office Opposite,
Collectorate Complex,
Marudhupandiyar Nagar,
Sivagangai District – 630 562.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in relating to proceedings No.H3/02-17/63/2023-1, dated 17.10.2023 passed by the third respondent and to set aside the same.

For Petitioner : Mr.R.Anandha Raj

For Respondents : Mr.G.Sivaraja
Government Advocate

ORDER

The present writ petition has been filed by a Typist working in the Commercial Tax Department challenging the order of transfer to Tirupur Commercial Tax Division.

2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as a Typist in the Commercial Tax Department at Madurai Division through Tamil Nadu Public Service Commission Recruitment, on 22.12.2018 and he joined the service in the Office of the



W.P.(MD).No.26283 of 2023

Assistant Commissioner, Commercial Tax Department, Sivagangai on 06.03.2019. Thereafter, he was transferred to the office of Deputy Commissioner (ST) Sivagangai on 01.06.2022, wherein, he is working till the impugned order was passed.

3. Under G.O.(Ms) 42, Commercial Taxes and Registration (A2) Department, dated 06.04.2023, a new division was created namely, Virudhunagar Division, in which, Sivagangai District is also included. In view of the creation of new Commercial Tax Division, the excess staff from one Division were sought to be transferred to the other division. In the light of the above said facts, the order impugned in the writ petition was passed on 17.10.2023 transferring the petitioner from Madurai Division to Tiruppur Commercial Tax Division. The order impugned in the writ petition indicates that the excess staff in the Madurai and Tiruchirappalli Division are being transferred to various other Divisions.

4. According to the learned counsel appearing for the petitioner, after passing of G.O.(Ms) 42, Commercial Taxes and Registration (A2) Department, dated 06.04.2023, the petitioner is not working in Madurai



W.P.(MD).No.26283 of 2023

WEB COPY

Division, but, working in the Virudhunagar Division. Therefore, the order impugned in the writ petition has been passed on an erroneous understanding that he continues to work in the Madurai Division.

5. The learned counsel appearing for the petitioner had further contended that two typists, namely, Shyamala and Deepika were appointed in the Virudhunagar Division in October 2023 who are Juniors to the writ petitioner. In case, if transfer orders are passed on the ground that excess staffs are available in a particular Division, the junior most staff alone could be transferred. Those two women typists who were junior have been retained in the Virudhunagar Division and the petitioner has been transferred to Tiruppur Commercial Tax Division, under a wrong understanding that he continues to work in the Madurai Division.

6. Per contra, the learned Government Advocate appearing for the respondents relying upon the counter had contended that as far as the seniority and his promotional opportunity are concerned, the same would be as per the parent Division. Therefore, the order of transfer will not affect either seniority or the promotion opportunity. There is no specific denial in



W.P.(MD).No.26283 of 2023

the counter with regard to the fact that the petitioner falls within the Virudhunager Division.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

8. It is an admitted fact that the petitioner was working at Sivagangai at the relevant point of time which falls within the Virudhunagar Division, in view of G.O.(Ms) 42, Commercial Taxes and Registration (A2) Department, dated 06.04.2023. The order impugned in the writ petition has been passed on 17.10.2023 under a wrong understanding that the petitioner continues to be in Madurai Division. If the seniority of the petitioner is taken into consideration in Virudhunagar Division as per G.O.(Ms) 42, Commercial Taxes and Registration (A2) Department, dated 06.04.2023 two other typists namely, Shyamala and Deepika are juniors to him in the Virudhunagar Division. However, without transferring those two staffs in the Virudhunagar Division, the petitioner who is senior to them, has been transferred to Tiruppur Commercial Tax Division.



W.P.(MD).No.26283 of 2023

WEB COPY

9. In view of the above said facts, the order impugned in the writ petition insofar as the writ petitioner is concerned, is hereby set aside. This Writ Petition stands allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

08.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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6/8



W.P.(MD).No.26283 of 2023

WEB COPY

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W.P.(MD)No.26283 of 2023

R.VIJAYAKUMAR,J.

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W.P(MD)No.26283 of 2023

08.12.2023