



W.P(MD).Nos.27369 & 22072 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 08.12.2023

ORDER PRONOUNCED ON : 13.12.2023

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

**W.P.(MD).Nos.27369 & 22072 of 2023
and WMP(MD).Nos.18395 & 18396 of 2023
and WMP(MD).No.24912 of 2023
and WMP(MD).No.24911 of 2023**

V.Balrajan

....Petitioner in both the writ petitions

Vs

1.The Chairman
TANGEDCO
8th Floor, N.P.K.R.R.Maalgai
No.144, Anna Salai
Chennai 600 002

2.The Chief Engineer/Personal
TANGEDCO
8th Floor, N.P.K.R.R., Maalgai
No.144, Anna Salai
Chennai 600 002

3.The Chief Engineer (Distribution)
Madurai Region
TANGEDCO
K.Pudur
Madurai 625 007

...Respondents 1 to 3 in both petitions

4.G.Muneeshwari
Accounts Supervisor
Office of the Superintending Engineer
Madurai EDC, Madurai

....4th Respondent in WP.No.22072 of 2023



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Prayer in WP(MD).No.27369 of 2023: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent No.3 to re-allot the petitioner to the vacant post of Assistant Accounts Officer, Revenue Branch, West Division, Madurai Metro Circle based on the representation of the petitioner dated 06.11.2023 within the time stipulated by this Court.

Prayer in WP(MD).No.22072 of 2023: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Memo No. 636/CE/D/Mdu/SADO/A.1/A11/F.Class 11/2023, dated 04.09.2023 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondent Nos.2 and 3 to re-allot the petitioner to Madurai Electricity Distribution Circle by considering the petitioner's representation dated 01.08.2023 under Reback Policy within the time stipulated by this Court.

For Petitioner : Mr.S.Louis
in both petitions

For Respondents : M/s.M.Parameswari
Standing Counsel for R1 to R3
in both petitions

: Mr.T.Antony Arulraj
For R4 in WP(MD).No.22072 of 2023

COMMON ORDER

The petitioner in both these writ petitions is working as Assistant Account Officer in Class-II Service at Theni EDC. He had filed



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W.P(MD).No.22072 of 2023 challenging the order of transfer granted to the fourth respondent from Theni EDC to Madurai EDC/Metro.

2.According to the learned counsel for the petitioner, the fourth respondent is junior to him and as per Reback Policy of the Corporation, due to want of vacancy, whenever an employee is transferred to a different circle on promotion, he should be given priority to get back to his parent circle as and when vacancy arises.

3.The learned counsel has relied upon the proceedings of TNEB dated 02.02.2009 which is extracted as follows:

“In this office memo cited, instructions were issued to the effect that the senior most promitte of particular circle in the panel who could not be retained in the present circle on. promotion for want of vacancy and allotted to other circles and joined/not joined on promotion may be taken back whenever vacancies arise even if they have not completed one year stay in the circle/station, subject to the condition that they belong to the same panel that no eligible R.T.A is pending to the circle/station based on the representation if any.”

4.According to the learned counsel for the petitioner, both the petitioner as well as the fourth respondent herein were transferred from Madurai to Theni EDC. A vacancy arose on 01.08.2023 due to retirement of one Husamai at Madurai EDC. The petitioner has given a representation on 01.08.2023 seeking for transfer to Madurai EDC on basis of the Reback



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Policy. However, without considering his request, the fourth respondent was accommodated in the said vacancy under the impugned order dated 04.09.2023. According to the learned counsel when the petitioner is senior to the fourth respondent, he should have been transferred to the said vacancy.

5.Pending writ petition, one more vacancy arose at Madurai EDC/Metro due to the retirement of one Nagalakshmi on 01.11.2023. Hence, the petitioner had filed WP(MD).No.27369 of 2023 seeking mandamus to direct the authorities to transfer him to the said vacancy at Madurai.

6.Per contra, the learned Standing Counsel appearing for TANGEDCO had contended that though the petitioner is senior to the fourth respondent herein, the fourth respondent had lost her husband due to Covid-19 on 22.07.2020 and she was again bereaved by the death of her son-in-law on 05.07.2021 due to Covid-19. On 31.07.2023, the fourth respondent had given a representation seeking to accommodate her at Madurai. Considering the fact that widowed daughter is also living with the fourth respondent, she was accommodated at Madurai EDC. Therefore, the contention of the petitioner is not legally sustainable.

7.The learned counsel for the respondent had relied upon the Tamil Nadu Electricity Board proceedings dated 02.02.2009 and contended that the question of applying Reback Policy would arise only when no request transfer application to a particular station or circle is pending. In the present



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case, one Malathi had given a request transfer on 01.07.2023 to accommodate her in Madurai EDC. The petitioner has given a representation on 01.08.2023 to accommodate him at Madurai. Therefore, considering the seniority in making request application, only after accommodating the said Malathi, the request of the petitioner can be considered as and when vacancy arises at Madurai EDC or Madurai Metro. Hence, he prayed for dismissal of the writ petition.

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

9.The petitioner who was working as an Account Supervisor at Madurai was promoted as an Assistant Account Officer and allotted to Theni EDC by way of proceedings dated 28.07.2023. A perusal of the said promotion order indicates that the petitioner is senior to the fourth respondent herein. Both the petitioner and the respondent were promoted and transferred to Theni EDC on the same day.

10.The fourth respondent in WP(MD).No.22072 of 2023 had lost her husband and son-in-law due to Covid-19 in July 2020 and July 2021 respectively. At the time of promotion of the fourth respondent and posting to Theni, the fourth respondent had already lost her husband and son-in-law due to Covid-19 and therefore, she had submitted a representation on 31.07.2023 to re-allot her to Madurai EDC. Considering the said circumstances, the



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TANGEDCO authorities were pleased to re-allot the fourth respondent to Madurai EDC. Therefore, the re-allotment of the fourth respondent to Madurai ignoring the seniority of the writ petitioner cannot be found fault with, in view of peculiar and critical circumstances.

11.A second vacancy arose at Madurai on 01.11.2023 for which the petitioner seeks to accommodate himself. The respondent authorities have produced the records to show that one Malathi had sent a representation on 01.07.2023 requesting to accommodate her in Madurai EDC. The petitioner had sent a representation only on 01.08.2023 to accommodate him at Madurai. A perusal of the Reback Policy guidelines issued by TANGEDCO dated 02.02.2009 clearly reveals that the question of applying Reback Policy would arise only when the request transfer application to a particular station or circle is not pending. In the present case, admittedly, the request transfer application by one Malathi dated 01.07.2023 which is prior to the application of the writ petitioner is pending. Therefore, this Court does not find any reason to issue a positive mandamus directing the respondents to accommodate the petitioner at Madurai EDC. However, if any vacancy arises in future at Madurai EDC or Madurai Metro, the request of the petitioner dated 01.08.2023 shall be considered as per Reback Policy.



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12. With the above said observations, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2023

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

msa

Pre-delivery order made in

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