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W.P.No.11950 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.11950 of 2022

and WMP.Nos.11370 & 11373 of 2022, 15902 of 2022

T.Milton

... Petitioner

Vs.

- 1.The Engineer-in-Chief, WRD
And Chief Engineer (General) PWD,
Chepauk, Chennai 600 005
- 2.The Executive Engineer, WRD,
The Office of Executive Engineer,
Upper Pennaiyar Basin Division, Dharmapuri,
Near Collectorate, Dharmapuri,
Dharmapuri District
- 3.The Assistant Executive Engineer,
The Office of Assistant Executive Engineer,
Upper Pennaiyar Basin Sub Division,
Varnatheertham Extension,
Harur, Dharmapuri District
- 4.The Divisional Office, RWD,
Ground Water Division,
Salem

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records of first respondent's impugned proceedings in No S 3(1) / 20020/2022-3 dated 25.04.2022 and to quash the same.



W.P.No.11950 of 2022

WEB COPY

For Petitioner : Mr.R.Veeramani

For Respondents : Dr.T.Seenivasan,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated 25.04.2022 of the first respondent thereby transferred the petitioner from Harur to Salem.

2. Heard, the learned counsel appearing on either side.

3. The petitioner had joined as Junior Assistant to Tamilnadu Ministerial Service on compassionate ground in the Office of the Executive Engineer, PWD, Lower Basin Division, Erode. Thereafter on 09.06.2006, he was promoted to the post of Assistant and posted in the Office of the Assistant Executive Engineer, PWD, Project and Planning Sub Division Erode. Once again, he was transferred to the Office of the Assistant Executive Engineer, PWD, Buildings, (C&M) Sub Division, Hosur. Subsequently, he was promoted to the post of Superintendent and



W.P.No.11950 of 2022

posted in the Office of the Assistant Executive Engineer, PWD, Varttar Project Division, Thiru.Vi.Ka. Nagar, Harur. Thereafter on 31.07.2019, he was transferred to the Office of the third respondent. While being so, on 26.04.2022, the first respondent once again transferred the petitioner from the Office of the third respondent to the Office of the fourth respondent on administrative ground.

4. On perusal of the counter filed by the respondents revealed that the petitioner was working as Superintendent in the third respondent Office and he has to obey the instructions of the Executive Engineer in the normal functions of the Sub Division till a regular Assistant Executive Engineer joined duty in the Sub Division. He had acted *sou motu* without adhering to the Executive Engineer's instructions, thus affecting the functions of the Sub Division. He has been consistently refusing to obey the instructions / other directions issued by the second respondent who is the administrative head of both Division and Sub Divisions. Therefore, the petitioner had miserably failed to attend the meetings held by the second respondent.



W.P.No.11950 of 2022

WEB COPY

5. However, all the reasons stated in the counter affidavit are not reasons for transferring the petitioner. On perusal of the impugned order revealed that the petitioner was transferred from the Office of the third respondent to the fourth respondent on administrative ground, whereas the reasons stated in the counter are completely contrary to the reasons stated in the transfer order. That apart, if at all the petitioner failed to obey the instructions or directions issued by the second respondent and failed to attend the meetings, the second respondent can very well proceed with disciplinary proceedings as against the petitioner. Instead, the petitioner has been transferred to the fourth respondent Office. Therefore, it is punitive in nature. As such, the impugned order cannot be sustained and the same is liable to be quashed. Accordingly, this writ petition is allowed and the impugned order dated 25.04.2022 of the first respondent is quashed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

23.01.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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W.P.No.11950 of 2022

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WEB COPY



W.P.No.11950 of 2022

G.K.ILANTHIRAIYAN, J.

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W.P.No.11950 of 2022

23.01.2024