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WP.No.24116 of 2024

In the High Court of Judicature at Madras

Reserved on : 28.8.2024	Delivered on : 30.8.2024
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.24116 of 2024
& WMP.Nos.26372 & 26374 of 2024

Chinnaponnu

...Petitioner

Vs

- 1.The Superintending Engineer,
Erode Electricity Distribution
Circle, Central Office,
EVKN Road, Erode-9.
- 2.The Chief Engineer - Personnel
(FAC), Administrative Branch,
NPK RR Maaligai, No.144,
Anna Salai, Chennai-2.
- 3.The Superintending Engineer,
Mettur Electricity Distribution
Circle, Mettur Dam-1.

**(R3 impleaded as per order of this
Court dated 30.8.2024 in WMP.No.
27647 of 2024 by NAVJ)**

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in KA.No.029-2/NI.PI.1/OOU.2(2)/KO.PA.TH0/2024 dated 18.5.2024 on the file of the Superintending Engineer, Mettur Electricity Circle, Mettur Dam-1 - the third respondent, the order in Koo.Aa.No.



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011430/0457/Ne.Pe1(1)/Koo.Maruniyamanam/2024 dated 05.8.2024 on the file of the first respondent following the order in Memo No. 057319/630/G.59/G.591/2023 dated 30.7.2024 on the file of the 2nd respondent, quash the same as illegal and direct the respondents to retain the petitioner in Mettur Division (**prayer amended as per order of this Court dated 30.8.2024 by NAVJ in WMP.No.27650 of 2024**).

For Petitioner : Mr.R.Sankarasubbu
For Respondents : Mr.K.Rajkumar, Standing Counsel

ORDER

This writ petition has been filed challenging the proceedings dated 18.5.2024 issued by the newly impleaded third respondent, the proceedings dated 30.7.2024 issued by the second respondent transferring the petitioner from Mettur Circle to Erode Circle and the consequential order dated 05.8.2024 issued by the first respondent relieving the petitioner in order to join duty in the transferred place.

2. The case of the petitioner is as follows :

(i) The petitioner is working as an Accounts Supervisor in the office of the third respondent. The grievance of the petitioner is that she was illegally transferred by the second respondent to Perundurai, Erode Circle vide proceedings dated 30.7.2024 followed by the order



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dated 05.8.2024 passed by the first respondent.

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(ii) According to her, she is aged about 55 years and is having three daughters and taking treatment for various ailments. Such a transfer was made only to accommodate one Mr.Murugan and one Mr.Ranganathan, who joined duty on 15.3.2024 at Mettur. That apart, disciplinary proceedings are also pending against the petitioner and therefore, till completion of the disciplinary proceedings, the petitioner ought not to have been transferred. The entire transfer order is attended with mala fides. Hence, she sought for interference with the impugned orders of transfer.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

4. It is not out of place to make a mention here that the proceedings dated 18.5.2024 issued by the newly impleaded third respondent has also been challenged in this writ petition wherein seven posts of Accounts Supervisor were found to be surplus and they have been distributed to the other stations. In so far as the Mettur Circle is concerned, it was found that the petitioner has been working in that circle for nearly 27 years 8 months and 27 days. She was found to be in the same station for more than six years. Hence, considering



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the fact that the petitioner is the senior most person, her post was found to be surplus and a direction was issued to transfer the petitioner to some other circle where her services are required. Accordingly, the impugned orders came to be passed transferring the petitioner from Mettur Circle to Perundurai, Erode Circle.

5. The learned counsel for the petitioner submits that the petitioner was identified as surplus only to accommodate the said Mr.Murugan and the said Mr.Ranganathan, who joined duty in the Mettur Office on 15.3.2024.

6. This submission made by the learned counsel for the petitioner is too far-fetched. This is in view of the fact that the petitioner managed to work in the same circle for more than 27 years and that the petitioner has also worked in the same station for more than six years. Therefore, it cannot be stated that the proceedings of the third respondent dated 18.5.2024 came to be issued only to dislodge the petitioner.

7. On carefully going through the proceedings dated 18.5.2024, it is seen that totally, 88 posts were found to be surplus and within those posts, the post of Accounts Supervisor was also found to be



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surplus and it was attempted to be distributed to other stations. Since the petitioner had held the post in the same circle for a longest period of time, she was proposed to be transferred to some other circle. Hence, there is no ground to interfere with the proceedings dated 18.5.2024 issued by the third respondent.

8. The next issue that was raised is that the transfer itself is attended with mala fides and that such a transfer should not have been made when the disciplinary proceedings are pending against the petitioner.

9. It may be true that the disciplinary proceedings are pending against the petitioner. Earlier, the petitioner challenged the same by filing a writ petition, which was ultimately dismissed and it was confirmed in writ appeal also. The Enquiry Officer has been appointed and the inquiry is yet to commence.

10. It is quite surprising that the petitioner managed to get hold of the internal communication dated 05.8.2024 wherein there is a mention that if any disciplinary proceedings are pending, the transfer need not be effected and it can be revoked. The said internal communication was not even served on the petitioner and what was



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actually served on the petitioner was shown by the learned Standing Counsel appearing for the respondents. The said internal communication has merely taken note of the re-allotment of the surplus staff and the petitioner has been directed to be relieved from the Mettur Circle and transferred to Perundurai, Erode Circle. The said internal communication relied upon by the petitioner does not give any right to the petitioner to stall the transfer order.

11. The learned counsel for the petitioner relied upon the order dated 12.10.2023 passed by the Madurai Bench of this Court in W.P. (MD) No.17448 of 2023 to strengthen her case.

12. The said order dated 12.10.2023 will not support the case of the petitioner since, in that case, the transfer itself was found to be punitive.

13. In the case on hand, the petitioner has been transferred to Perundurai, Erode Circle since the post of Accounts Supervisor was found to be surplus in Mettur Division. Hence, strictly speaking, the petitioner must only be construed to have been reallocated to Perundurai, Erode Circle and this is not a case of transfer *stricto sensu*. Since the post, which the petitioner has been holding, at



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Mettur was found to be surplus, there is no scope to retain the petitioner in the same post at Mettur and she has to be necessarily shifted to Perundurai, Erode Circle where her services are required.

14. The mere pendency of the disciplinary proceedings against the petitioner is not a ground to stall the transfer. The petitioner has only been shifted to a place, which is hardly 45 to 50 Kms. Therefore, there must be no difficulty in attending the disciplinary proceedings. The transfer/relocation of the petitioner to Perundurai, Erode Circle will not, in any way, prevent the petitioner from effectively defending her case in the pending disciplinary proceedings. This Court does not find any material to conclude that the transfer of the petitioner is attended with mala fides. In the light of the above discussions, this Court does not find any merits in this writ petition.

15. Accordingly, the writ petition is dismissed. The petitioner is directed to immediately join duty in the transferred place namely Perundurai, Erode Circle within a period of one week from today. No costs. Consequently, the connected WMPs are closed.

30.8.2024



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N.ANAND VENKATESH,J

RS

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Erode Electricity Distribution
Circle, Central Office,
EVKN Road, Erode-9.
- 2.The Chief Engineer - Personnel
(FAC), Administrative Branch,
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