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W.A.No.2905 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

W.A.No.2905 of 2024
and C.M.P.No.21456 of 2024

TNEB Accounts and Executive Staff Union,
Rep. by its General Secretary,
Mr.K.Chandrasekaran,
Room No.7, 1st Floor,
No.144, MLDC Building,
TNEB Complex, Anna Salai,
Chennai – 600 002.

... Appellant

Vs.

1.The Principal Secretary to Government,
Energy Department,
Fort St.George, Chennai – 600 009.

2.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai, Chennai – 600 002.

3.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai,
Chennai – 600 002.

... Respondents



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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, praying to set aside the order passed by this Court in W.P.No.19372 of 2024 dated 12.09.2024.

For Appellant : Mr.R.Singaravelan,
Senior Counsel
for Mr.A.R.Suresh

For R1 : Mr.P.S.Raman,
Advocate General
assisted by Mr.S.John J.Raja Singh,
Additional Government Pleader

For R2 & R3 : Mr.P.Wilson,
Senior Counsel
for Mr.K.Rajkumar,
Standing Counsel

JUDGMENT

(Judgment of the Court was made by *M.S.RAMESH, J.*)

The Tamil Nadu Electricity Restructuring and Transfer Scheme 2024 (hereinafter referred to as 'Transfer Scheme 2024') was introduced through G.O.Ms.No.32, Energy (B2) Department, dated 06.03.2024, by which, certain properties, interest in properties and liabilities of Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) were transferred to the Tamil Nadu Power Generation Corporation Limited (TNPGL) and Tamil Nadu Green Energy Corporation Limited (TNGECL).



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With provision for transfer of officers and employees of TANGEDCO to the two new entities, the scheme was formulated by the Government of Tamil Nadu, in exercise of its powers conferred under Sections 131 and 133 of the Electricity Act, 2003 (hereinafter called as 'the Act'). Pursuant to the introduction of the scheme, consequential orders for redeployment of some of the officers and employees were ordered. The appellant is one among the several Trade Unions/Employees' Association, who claims to be aggrieved against the introduction of the Transfer Scheme 2024 and the consequential redeployment orders and accordingly, had filed a Writ Petition in W.P.No.19372 of 2024. By an order dated 12.09.2024, the learned Single Judge of this Court had dismissed the Writ Petition, as against which, the present Intra Court Appeal arises.

2. Mr.R.Singaravelan, learned Senior Counsel appearing for the appellant submitted that all along, whenever the employees were sought to be transferred to the newly formed entities, options were called for from the employees and such a procedure has now been given a go-bye and thus, the present transfer orders passed, are illegal. With such a submission, the learned Senior Counsel sought for intervention of this Court, to direct the



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respondents to seek for the views of the members of the Staff Union before effecting any transfers.

3. Per contra, Mr.P.S.Raman, learned Advocate General appearing for the first respondent/Government submitted that transfer is an integral part of service conditions, which is an administrative decision and therefore, this Court should refrain from interfering with such a decision of the Government. He further submitted that the Transfer Scheme 2024 came into effect after entering into a Tripartite Agreement dated 12.02.2024 between the Government, TANGEDCO and TANTRANSCO, after giving an opportunity to 28 of the recognized Trade Unions, in which, the appellant/Staff Union was also one among them. In view of Section 131 of the Act, the transferred employees are bound to comply with the decisions of the transfers made under the Transfer Scheme 2024.

4. Mr.P.Wilson, learned Senior Counsel appearing for the second and third respondents contended that the transfer orders for 79 persons under their scheme will not change the current position occupied by them since the



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transferees would be still on the rolls of TANGEDCO and have been deputed on as-is-where-is basis only, during the transitional period.

5. We have given our careful and anxious consideration to the submissions made on either side.

6. A perusal of the order of the learned Single Judge in the Writ Petition would reveal that the petitioner/Union appears to have taken a stand that there was no Tripartite Agreement between the petitioner and the other Trade Unions at all, which amounts to non-compliance of Section 133 of the Act. It was contended before the learned Single Judge that all along when the employees were deputed from the State Electricity Department to the Tamil Nadu Electricity Board to the then newly formed Tamil Nadu Electricity Board, as well as when all TNEB employees were deputed to TANGEDCO, their individual consent/options were called for, which procedure has been ignored under the present Transfer Scheme 2024. The learned Single Judge had however, taken note of the fact that such a submission was factually incorrect, since Clause 2(u), as well as the various other clauses under it, is based on the Tripartite Agreement only and



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therefore, had rejected the claim of the petitioner/Union.

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7. We have also perused the Transfer Scheme 2024. Clause 2(u) of the Transfer Scheme 2024 defines 'Tripartite Agreement', that was entered between TANGEDCO, TANTRANSCO and TNEB, as well as the State Government and the approved Union or Association of the Personnel concerned and approved by State Government on 31.10.2023. In the Tripartite Agreement dated 12.02.2024, the appellant/Staff Union was arrayed as Sl.No.2 out of the 28 Associations. Apparently, the views of the appellant/Union, as well as the other Trade Unions were taken into consideration and with the consent of all these Unions, the Transfer Scheme 2024 has been formulated. This aspect has also been rightly considered by the learned Single Judge in his order.

8. This apart, the learned Single Judge had also taken into consideration the limited scope of interference, which a High Court exercises under Article 226 of the Constitution of India while dealing with transfer orders in service matters and administrative decisions of the Government, for which purpose, reliance was placed in the decisions of the Hon'ble Supreme Court in the cases of '*State of U.P. & another Vs. Siya Ram & another*'



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reported in '**(2004) 7 SCC 405**' and '**Centre for Public Interest Litigation**

Vs. Union of India & others' reported in '**(2016) 6 SCC 408**'. Thus, when the appellant/Union themselves were a part of the Tripartite Agreement, which culminated into formulation of the Transfer Scheme 2024, whereby all the members of the various Trade Unions, including the appellant/Union, had unequivocally agreed to abide by the transfers to be made to the newly formed two entities. We are in total agreement with the observations and findings made by the learned Single Judge in the order passed in the Writ Petition.

9. There is yet another aspect to the matter. The appellant is only one among the 28 Trade Unions, which were part of the deliberations of the Tripartite Agreement and who alone has challenged the Transfer Scheme 2024 in G.O.Ms.No.32 dated 06.03.2024. When several other Associations, representing thousands of employees/workmen have agreed to the formulation of the Transfer Scheme 2024, the appellant/Staff Union alone may not have the locus to challenge the Transfer Scheme in its entirety and the consequential transfer orders. Even if this Union has any grievance over the Transfer Scheme or the transfer orders, it ought to have impleaded all the



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rest of the Trade Unions/employees' Union, who were parties to the Tripartite Agreement in order to give them an opportunity to put forth their views on the challenge made by them. Having failed to do so, the Writ Petition itself would not be maintainable for non-joinder of the necessary and proper parties. On this ground also, the Writ Petition would fail.

10. At this juncture, the learned Senior Counsel appearing for the appellant/Union brought to our notice that certain strictures have been recorded by the learned Single Judge and sought for expunging such observations.

11. The circumstances and the manner in which such alleged strictures have been made, would be only within the exclusive knowledge and mind of the learned Single Judge and therefore, it would be appropriate that such a request for expungement should be made only to the learned Single Judge and not before this Bench. With this observation, we hereby grant liberty to the appellant/Union for approaching the concerned learned Single Judge, seeking for expunging the observations, if any. We hasten to record here that, we have not expressed our views with regard to any of the observations



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made by the learned Single Judge.

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12. Before closing the Writ Appeal, we would like to observe here that in case, any of the members of the TANGEDCO, who are or may be redeployed to the new entities, namely TNPGL and TNEGCL, seek for redeployment on valid and sufficient grounds, it is always open to them to give representations to the concerned authorities, who shall consider it on its own merits and pass appropriate orders. We however clarify that such a liberty to make a representation, ought not to be construed as a positive direction to the Management.

13. In the light of the foregoing observations, there are no merits in this Writ Appeal and accordingly, the same stands dismissed. No costs. Connected miscellaneous petition is closed.

[M.S.R., J] [C.K., J]
24.09.2024

Index: Yes
Speaking order
Internet: Yes
Neutral Citation: Yes



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and
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