



W.A. (MD) No.154 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.02.2024

PRONOUNCED ON : 22.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A(MD).No.154 of 2024

A.Albert

.... Appellant / Writ Petitioner

Vs.

1.The Chairman,

**Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maligai,
Chennai – 600 002.**

2.The Chief Engineer Personnel,

**Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Annasalai, Chennai – 600 002.**

3.The Superintending Engineer,

**Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamil Nadu Electricity Board, Nagercoil,
Kanyakumari District – 625 007.**

... Respondents/ Respondents 1 to 3



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the appeal and set aside the order of this Court made in W.P(MD).No.1432 of 2016 dated 12.04.2023.

For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.S.Arivalagan,
Standing Counsel

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The petitioner in the writ petition is the appellant herein. The petitioner was working as a Senior Grade driver in Madurai Distribution Circle of Tamil Nadu Electricity Board. On his request, he was transferred to Kanniyakumari Electricity Distribution Circle, by an order, dated 24.06.2006. At the time of his transfer, he was reverted from the Senior Grade Driver to Driver and on the said condition, he was transferred to Kanniyakumari Circle.

2. After being transferred to Kanniyakumari Circle, the petitioner was making several representations, to restore his salary as Senior Grade Driver in Kanniyakumar Circle. Since those representations were not considered, the petitioner had filed W.P.(MD)No.21847 of 2015 for a Writ of Mandamus, to



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consider his representation and to revise his scale of pay on par with his Juniors. While the said Writ Petition was pending, the petitioner had chosen to withdraw the Writ Petition with liberty to challenge the transfer order dated 24.06.2006. Thereafter, the petitioner had filed the present writ petition in W.P.(MD)No.1432 of 2016, challenging the condition imposed in the transfer order.

3. The Writ Court, after considering the submissions made on either side, had arrived at a finding that only on the said condition of being reverted as a Driver, the petitioner was permitted to get transferred from Madurai Circle to Kanniyakumari Circle. Having accepted the said condition and got transferred to the desired place, the petitioner cannot now challenge the condition imposed in the transfer order. Challenging the same, the present Writ Appeal has been filed.

4. According to the learned counsel appearing for the appellant, the appellant while he was working in Madurai Circle as a Driver, he was promoted as Senior Grade Driver and was receiving a higher scale, he made a request for transfer to Kanniyakumari Circle. Due to his family circumstances, he had to



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accept the condition imposed in the transfer order and he got transferred to Kanniyakumar Circle. Such a condition is illegal and void and cannot be enforced. Therefore, he could be transferred to Kanniyakumari Circle only as Senior Grade Driver. However, the Writ Court had not properly appreciated the said fact and had confirmed the order.

5. We have carefully considered the submissions made on either side and perused the materials available on records.

6. The appellant, while he was working as Senior Grade Driver in Madurai Circle, had made a request to the T.N.E.B on 13.02.2006 to transfer him to the existing vacancy in Kanniyakumari Circle. A perusal of the order impugned in the Writ Petition discloses that the petitioner shall forego his seniority and he will be joining only as a Driver and he would not be eligible for any promotion in the transferred place. The appellant was also directed to give necessary undertaking, agreeing for the above said conditions. The appellant had accepted all these conditions by giving an undertaking letter and thereafter, he was transferred to Kanniyakumari Circle, in June 2006.



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7. The appellant, after joining in Kanniyakumari Circle, had addressed the representation on 17.07.2006, seeking to upgrade him as Senior Grade Driver and to confer higher pay scale. A perusal of the said representation reveals that there is no post of Senior Grade Driver in Kanniyakumari Electricity Distribution Circle and therefore, he had been reverted as Driver to Kanniyakumari Circle. Therefore, it is clear that there is no post in the cadre of Senior Grade Driver in Kanniyakumari Electricity Distribution Circle, when the appellant was transferred from Madurai Circle. The appellant having full knowledge about the same and accepting the condition, had got transferred to Kanniyakumari Circle and joined the said place. Since there is no post of Senior Grade Driver in the said Circle, the question of granting pay scale of Senior Grade Driver to the writ petitioner / appellant would not arise.

8. The appellant having accepted the said reversion and had joined the post in June – 2006, ten years thereafter, the present Writ Petition has been filed, challenging the conditions imposed in the transfer order. The petitioner / appellant having accepted the condition cannot be now turn around and



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contended that the said condition is illegal or void. Moreover, the writ petitioner / appellant had slept over the issue for more than 10 years.

9. In view of the above deliberations, we do not find any merit in the Writ Appeal. Hence, the writ appeal stands dismissed. No costs.

(D.K.K.J.,)

(R.V.J.,)

22.02.2024

Index :yes
Internet :yes
NCC :Yes/No
LS



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**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR, J.**

LS

Pre-delivery Judgment made in

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