

(2011) 02 MAD CK 0510
In the Madras High Court
Case No : Writ Petition No. 24469 of 2010

A. Selvaraj

APPELLANT

Vs

The Chief Engineer, Administrative Branch, Personnel
Department, The Chairman, The Executive Engineer (Urban),
Erode Electricity Distribution Circle and The Assistant
Engineer (Vigilance), Vigilance Department, Tamil Nadu
Electricity Board

RESPONDENT

Date of Decision : 02-02-2011

Acts Referred:

Citation : (2011) 02 MAD CK 0510

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : S. Sathishkumar, for the Appellant; B. Sekar, for R 1 to R 4, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The learned Counsel appearing for the Petitioner submitted that when the Petitioner was serving in the Respondents department at Erode District, for no reason, the Respondents have wrongly transferred the Petitioner to Nilgiris District, by an order dated 11.11.2010, which was signed by the Superintendent on 21.10.2010. Further, it was argued that when the transfer of the Petitioner was effected, in the counter, it was mentioned that the Petitioner's presence would cause detrimental to the administration of the Division Office, since the Petitioner connived with one Murugan, who had proceeded with departmentally, therefore, it is obvious from the enquiry that the Petitioner is involved in the said allegation. Accordingly, it was contended that just because the Petitioner is associated with one Murugan, against whom, an enquiry is pending, the Respondents cannot seek to transfer the Petitioner from Erode District to Nilgiris District.

2. In his further submission, he has also relied upon the judgment of the Apex

Court in the case of Somesh Tiwari Vs. Union of India (UOI) and Others, to say for a proposition that if any transfer order is based on an irrelevant ground, namely, on the allegations made against the Petitioner in an anonymous complaint, the same is liable to be set aside as illegal and on that basis, learned Counsel for the Petitioner sought for setting aside the impugned transfer order.

3. The learned Counsel appearing for the Respondents submitted that the Petitioner has worked for more than 25 years in the Erode Division and since he had a strong base to connive with the officers, who helped to execute the irregularities, he was warned on many occasions orally for his insubordination to the higher officers and for disobeying the orders of the superiors and further, it was submitted that the transfer is incidental and effected only in the interest of the administration, therefore, the Petitioner cannot challenge the correctness of the impugned transfer order, which was passed in the interest of the administration, that too, after the Petitioner was allowed to work in one place for about 25 years.

4. Heard the learned Counsel appearing on either side and perused the materials available on record.

5. It is settled law that the Courts should not interfere with transfer orders which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department.

6. Similarly, the Apex Court in the case of Union of India and others Vs.S.L. Abbas (AIR 1993 SCC 2444), has held thus:

Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however does not confer upon the Government employee a legally enforceable right

In the present case, the Petitioner has almost worked for more than 25 years in Erode District before he was visited with the impugned transfer order to Nilgiris District. Therefore, for the reasons that the Petitioner has been transferred by

the impugned order only after keeping him for more than 25 years, I do not find any infirmity in the impugned transfer order and accordingly, the writ petition fails and is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.