

(1995) 02 MAD CK 0024
In the Madras High Court

Tamil Nadu Electricity Board and Others	APPELLANT
Vs	
K. Loganathan	RESPONDENT

Date of Decision : 20-02-1995

Acts Referred:

Citation : (1995) 2 MLJ 119 : (1995) WritLR 387

Hon'ble Judges : K.A. Swami, C.J

Bench : Division Bench

Judgement

K.A. Swami, C.J.—This appeal is preferred against the order dated 14.11.1994 passed by the learned single Judge in W.P. No. 13733 of

1994. In the writ petition, the petitioner sought for quashing the official memorandum dated 4.12.1992 and also sought for a mandamus to restore

the official memorandum dated 21.5.1985. Both those official memorandums contain the guidelines for the purpose of effecting transfers of the

employees of the Tamil Nadu Electricity Board. The learned single Judge has quashed the official memorandum dated 4.12.1992 on the ground

that the Mettur Power Thermal Station and Mettur Power Thermal Project should not have been treated as one and that the earlier Memorandum

dated 21.5.1985 is more reasonable than the latter one.

2. First of all, we would like to make it clear that these official memorandums being the guidelines for the purpose of effecting transfers, the same

do not confer any enforceable right on the employees of the Board and they are intended to ensure, that the authorities empowered to effect

transfers, do not exercise their powers arbitrarily. This is an established legal position. In this regard it is sufficient to refer to the decision in Union

of India and Others Vs. S.L. Abbas, . In paragraph 6 of the said decision, it has

clearly stated thus:

.... All he says is that he should not be transferred because his wife is working in Shillong, his children are studying there and also because his health

had suffered a set back sometime ago. He relies upon certain executive instructions issued by the Government in that behalf. Those instructions are

in the nature of guidelines. They do not have statutory force.

[Italics supplied]

Again in paragraph 7 of the said decision, it has been stated thus:

....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 instant case, the Board has issued the impugned memorandum in order to meet a particular contingency. It is stated in the very same

memorandum that it would be applicable only when the transfer is to be effected by reason of abolition of posts. The relevant portion of the official

memorandum states that the juniormost in the combined two circles shall be transferred out. The grievance of the respondent is that whereas in the

case of Classes III and IV, senior most employees should be transferred and when it comes to the inferior category employees, the juniormost

should be transferred. It is highly inequitable and opposed to the earlier memorandum, which is found as reasonable by the learned single Judge. If

such a contention is to be countenanced, then the Electricity Board--the employer, will have no power to effect transfer of its own employees.

There is no right vested in the writ petitioner to contend that he is not transferable. For the purpose of transfer, certain guidelines are adopted. We

may also point out that the impugned guidelines has not affected the petitioner in any manner. It has been brought to our notice that state-wide

seniority list is prepared for the purpose of effecting promotions and that the petitioner is also included in the panel of officials to be promoted. The

combined seniority of persons serving in the Mettur in M.T.P.P. and M.T.P.S. is only for the purpose of effecting transfers as a result of abolition

of posts.

3. It may also be noticed in this connection another decision of the Supreme Court reported in N.K. Singh Vs. Union of India and others, ,

wherein it has been specifically, observed that:

The transfer of the appellant from CBI to BSF has no adverse consequence on the service career and prospects of the appellant and the transfer

of the appellant to BSF was in an equivalent post and the appellant was given two promotions thereafter in course.

Again in paragraph 24 of the said decision, it has been observed thus:

The private rights of the appellant being unaffected by the transfer, he would have been well advised to leave the matter to those in public life who

felt aggrieved by his transfer to fight their own battle in the forum available to them....Challenge in courts of a transfer when the career prospects

remain unaffected and there is no detriment to the Government servant must be eschewed and interference by courts should be made, only when a

judiciously manageable and permissible ground is made out. This litigation was ill-advised.

[Italics supplied]

When it is not possible to hold that the impugned memorandum is in any way opposed to any of the rights of the petitioner, much less any

fundamental right, it is not open to the court to substitute its reasons to hold that the earlier memorandum is reasonable than the later one, as long as

the later one lies within the power of the appellant- Board. Hence, we are of the view that the learned single Judge is not justified either in quashing

the impugned memorandum or interfering with the transfer. Accordingly the writ appeal is allowed. The order dated 14.11.1994 passed in W.P.

No. 13733 of 1994 by the learned single Judge is set aside. The writ petition is dismissed. No costs.