

P. Selvakumar Vs Tamil Nadu Industrial Explosive Ltd.

Court: Madras High Court

Date of Decision: Oct. 17, 2012

Citation: (2013) 2 LLN 253

Hon'ble Judges: S. Nagamuthu, J

Bench: Single Bench

Advocate: T. Varadarajulu, for the Appellant; R. Jagadeesan, for the Respondent

Final Decision: Dismissed

Judgement

S. Nagamuthu, J.

The Petitioner is working as Auto Mechanic in the Tamil Nadu Industrial Explosives Limited at Katpadi, Vellore District.

The General Manager by his proceedings in TEL/PL/W/1084/2012-13 dated 28.5.2012, transferred and posted the petitioner at Singareni

Collieries Co. Ltd., in Andhra Pradesh State. As per the said order, his Headquarters is at Ramagundam, Andhra Pradesh State. Challenging the

said order of transfer, the Petitioner is before this Court with this Writ Petition. The Tamil Nadu Industrial Explosive Limited at Katpadi, Vellore

District is a Government of Tamil Nadu Enterprise. The Petitioner is now working in the Marketing Department. One of the duties of an Employee

of the Marketing Department is to go out to the field for mobilizing collection of dues to the Petitioner-Company. The establishment known as

Singareni Collieries Co. Ltd., is in Andhra Pradesh State and it has got business dealings with the Tamil Nadu Industrial Explosives Ltd. As of

now, around a sum of Rs. 30 lakhs is due from Singareni Collieries Co. Ltd. It is the paramount duty of the Employee working in the Marketing

Department to take steps to recover the said amount. Previously, an Employee working in the Marketing Department was deputed for the said

work of recovering the amount from Singareni Collieries Co. Ltd. He was staying in Ramagundam and making collection. He went of Voluntary

Retirement. Thereafter, the impugned order came to be passed transferring the Petitioner to Singareni Collieries Co. Ltd.

2. It is the contention of the learned Counsel for the Petitioner that Singareni Collieries Co. Ltd. is a different Company, over which, the Tamil

Nadu Industrial Explosives Ltd. has got no control. Therefore, the transfer of the Petitioner to Singareni Collieries Co. Ltd. is wholly without

jurisdiction. It is on this ground seeking to quash the impugned transfer order, the Petitioner has come up with this Writ Petition before this Court.

3. Though the impugned order is styled as transfer order, in the Counter, a totally contradicting statement is found in Paragraph No. 12, wherein, it

has been stated as follows:

12.....We are supplying our products to the Singareni Collieries Co. Ltd. Usually a Marketing official is posted there. It is not a new practice to

post a person there and now the Petitioner is posted. The person, who was looking the work at Singareni Collieries Co. Ltd., has gone on VRS.

Therefore, we are in compulsion to depute one person to this area to collect the huge outstanding amount. Hence, we have no other option except

to depute the Petitioner as a stop gap arrangement, since he is marketing personnel and the job has arisen there. Further, this is not against the

provisions of Standing Order. As per the terms in the appointment order issued to the individuals and accepted by the Petitioner, his duties would

be assigned by the Management from time to time and he should serve in any department/division/units, to which he may be assigned from time to

time. He accepted the terms and conditions of the employment and any refusal by him is a flagrant violation of the terms and condition of the

organization and duly accepted by him.

4. Thus, it is crystal clear that though the order impugned in the Writ Petition runs with the caption ""transfer order"", in the Counter, the Respondent

has described the same as ""order of deputation"". As rightly contended by the learned Counsel for the Petitioner, there is no order of transfer

transferring the Petitioner to Singareni Collieries Co. Ltd., because, Singareni Collieries Co. Ltd. is a different Company. But, at the same time,

being in the Marketing Department, it is the duty of the Petitioner to obey the order of the Management to go over to Singareni Collieries Co. Ltd.,

to make stay at Ramagundam and to collect the amount. This is the duty assigned to the Petitioner and the same shall not be considered as transfer.

Therefore, the impugned order which is styled as transfer order is liable to be quashed, however, with liberty to the General Manager of the

Respondent to assign the job to the Petitioner to go over to Singareni Collieries Co. Ltd., to make steps to recover the amount due from Singareni

Collieries Co. Ltd. In view of the above, the Writ Petition is allowed and the impugned order is quashed however, with liberty to the Respondent-

General Manager to assign the job to the Petitioner to go over to Singareni Collieries Co. Ltd., to make a stay at Ramagundam and to take all

positive steps to recover the amount due from Singareni Collieries Co. Ltd., and also to carryout the other duties which would be assigned by the

General Manager of the Respondent then and there. No costs. Consequently, connected Miscellaneous Petition is closed.