

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.02.2015

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THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

W.P.No.34822 of 2014
& M.P.No.1 of 2014

R.M.Praveen Raghu

... Petitioner

Vs

The Commissioner,
Food Safety and Medicines
Distribution Department,
D.M.S.Compound,
Teynampet, Chennai.

.. Respondent

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records of the respondent in R.No.7770/2014/S1/FSSA, dated 21.11.2014 and to quash the order passed by the respondent and to direct the respondent to transfer the petitioner from the post of Food Safety Officer in Nagapattinam District to the post of Food Safety Officer in the place of Rajakkamangalam or Agastheeswaram or Killiyur Block, Kanniyakumari District where there is vacant for the post of food safety officer as on date, on sympathetic and humanitarian grounds.

For Petitioner : Mr.S.Venkatesh
For Respondent : Mr.M.S.Ramesh, AGP

O R D E R

The request made by the petitioner for transfer from Nagapattinam to Kanyakumari was rejected on the ground that without fixing seniority transfer cannot be made. The said order is challenged in this writ petition.

2. According to the petitioner, his mother is a cancer patient and she requires personal attention. The petitioner is the only male member of the family and as such he has to look after his mother. The petitioner submitted an application for posting him in any of the places within the district of Kanyakumari. The said request was rejected on the ground that a proposal for fixing seniority is pending and as such it is not possible to transfer him. Hence, the petitioner is before this court.

3. Learned counsel for the petitioner would submit that the petitioner is prepared to forgo seniority. According to the learned counsel, the petitioner would not make any claim for seniority at any point of time, in case he is posted at Kanyakumari.

4. Learned Additional Government Pleader has produced a copy of the order dated 21.08.2014 in W.P.No.24661 & 24952 of 2013 and submitted that this Court had directed the Government to form a committee to frame rules and till such constitution, the Government was directed not to fix seniority. In view of the order passed by this Court, the respondent is helpless.

5. There is no dispute that this Court passed an order on 21.08.2014 directing the respondent to form a committee for the purpose of framing rules. It is also not in dispute that the State was restrained from fixing the seniority till the completion of exercise regarding framing of rules. Here is a petitioner who has opted not to claim promotion on account of his family situation. The petitioner has very clearly stated that he is not seeking seniority and he would be satisfied, if he is posted within the district of Kanyakumari. The order passed by this Court on 21.08.2014 does not contain any direction to the respondent not to transfer a person by way of inter-district transfer even if he forgo his seniority. The direction was to frame rules and not to fix the seniority till framing such rules. The said order would not stand in the way of considering the request of the petitioner to transfer him from Nagapattinam to Kanyakumari without claiming seniority. Since the petitioner has given an undertaking that he would not claim seniority, necessarily the issue requires fresh consideration by the respondent.

6. In the result, the impugned order dated 24.11.2014 is set aside. The matter is remitted to the respondent for fresh consideration. The respondent is directed to obtain an undertaking from the petitioner that he would not claim seniority. The request made by the petitioner to transfer him to any of the places within the district of Kanyakumari shall be considered by taking into account the reasons stated by him for such transfer in the affidavit. Such exercise shall be completed within a period of two weeks, from the date of receipt of a copy of this order.

7. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

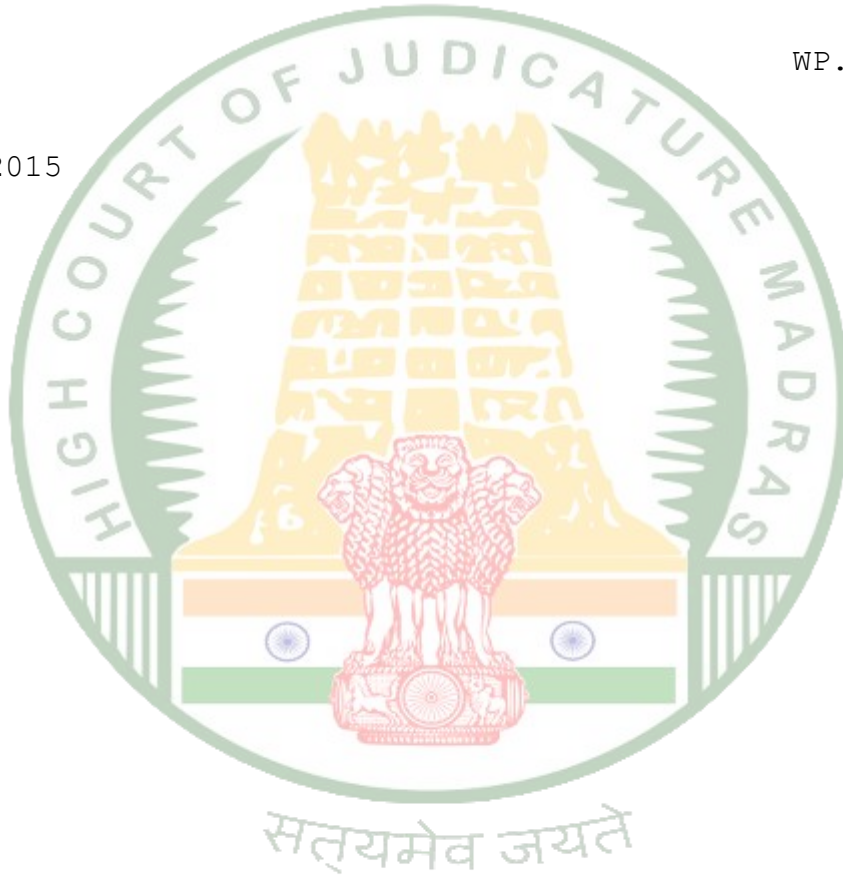
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To,
The Commissioner,
Food Safety and Medicines
Distribution Department,
D.M.S.Compound,
Teynampet, Chennai.

1 cc to Mr.S.Venkatesh ,Advocate, SR.No.8120
1 cc to Government Pleader,Sr.No8398

WP.No.34822 of 2014

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