

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2015

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The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23762 of 2013

and

M.P.Nos.2 of 2013 and 1 of 2014

Albert Stephen Devaraj

...Petitioner

-vs-

1. Secretary,
Education Department,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai.
2. The Registrar,
In-charge of Annamalai University,
Annamalai Nagar, Chidambaram.
3. Administrator,
Annamalai University,
Annamalai Nagar, Chidambaram.
4. Sivadas Meena
Administrator,
Annamalai University,
Annamalai Nagar, Chidambaram.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records relating to Order No.777/2013 (C3) dated 03.08.2013, issued by the 2nd respondent and quash the same.

For Petitioner : Mr.Sai Srujan Tayi for
M/s. Giridhar & Sai Associates

For Respondents : Mr.R.Vijayakumar
Addl. Govt. Pleader for R-1

Mr.R.Suresh Kumar for RR 2 to 4

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2. Heard Mr. Sai Srujan Tayi, learned counsel for the petitioner, Mr. R. Vijayakumar, learned Additional Government Pleader for first respondent and Mr. R. Suresh Kumar, learned counsel for respondents 2 to 4.

3. The petitioner, who is working as a helper in the respondent-University, was transferred to the Directorate of Distance Education, Information Centre, Tambaram, on his request vide order dated 08.06.2011. Subsequently, by order dated 03.08.2013, the petitioner was transferred and posted in a Hostel of the University campus at Chidambaram, namely Kurinchi Illam (Agriculture). This order is impugned in this writ petition.

4. Though this Court will not entertain writ petitions challenging orders of transfer, unless and until there was a strong ground of malafides or punitive action has been established, this Court was inclined to entertain the writ petition on the ground that the petitioner is a last grade servant and under normal circumstances, he will not be subjected to transfer. This was the reason which weighed in the mind of this Court when it granted interim stay on 26.08.2013.

5. The Administrator of the University, appointed by the Government, has been impleaded in his personal capacity as 4th respondent presumably to support the allegation of malafide. On perusal of the affidavit filed in support of the writ petition, there was no specific allegations of malafide and the allegations made in the affidavit are very much vague stating that the 4th respondent's wife directed the petitioner to do household works and since he refused to do the same, the impugned order of transfer has been passed. On a perusal of the averments made in the affidavit filed in support of the writ petition, this Court is of the view that there was no specific allegation of malafide, especially that the order of transfer was punitive in nature.

6. As stated above, the learned Judge, who entertained the writ petition, did not entertain the same on the ground that the impugned order of transfer was either punitive or with malafide intention, but only on the ground that the petitioner was a last grade servant, who normally would not be transferred. It is to be noted that the

petitioner was transferred to the Distance Education, Information Centre at Tambaram on his request in 2011. So, under normal circumstances, the petitioner was due for transfer on completion of three years or as per the transfer policy of the respondent University. By virtue of an interim order granted by this Court in this writ petition, the petitioner has been continuing in the said post. At the time when the writ petition was filed, the petitioner has stated that he is a diabetic and his wife is 7 months pregnant and he cannot travel to Chidambaram. By efflux of time, the confinement of the wife, as stated in the affidavit, would not no longer survive, as more than three years have passed by.

7.This Court is fully satisfied that the petitioner has failed to establish the allegations of malafide and considering the facts and circumstances of the case and also taking note of the submission made in the counter-affidavit that the hostel premises is in urgent need of helpers, as there are 565 students staying in the hostel. That apart, more than 156 office assistants have also been transferred in the respondent-University and these are all routine transfers in accordance with their policy.

8.In the light of the above, the petitioner has not made out a case for interference with the impugned order. Accordingly, the writ petition is dismissed. The respondent-University shall consider the petitioner's plea for the transfer during the regular session without being in any manner influenced or biased on account of the fact that the petitioner approached this Court by filing this writ petition. No costs. Consequently, connected M.Ps. are dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

sra

To

1. Secretary,
Education Department,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai.

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2. The Registrar,
In-charge of Annamalai University,
Annamalai Nagar, Chidambaram.

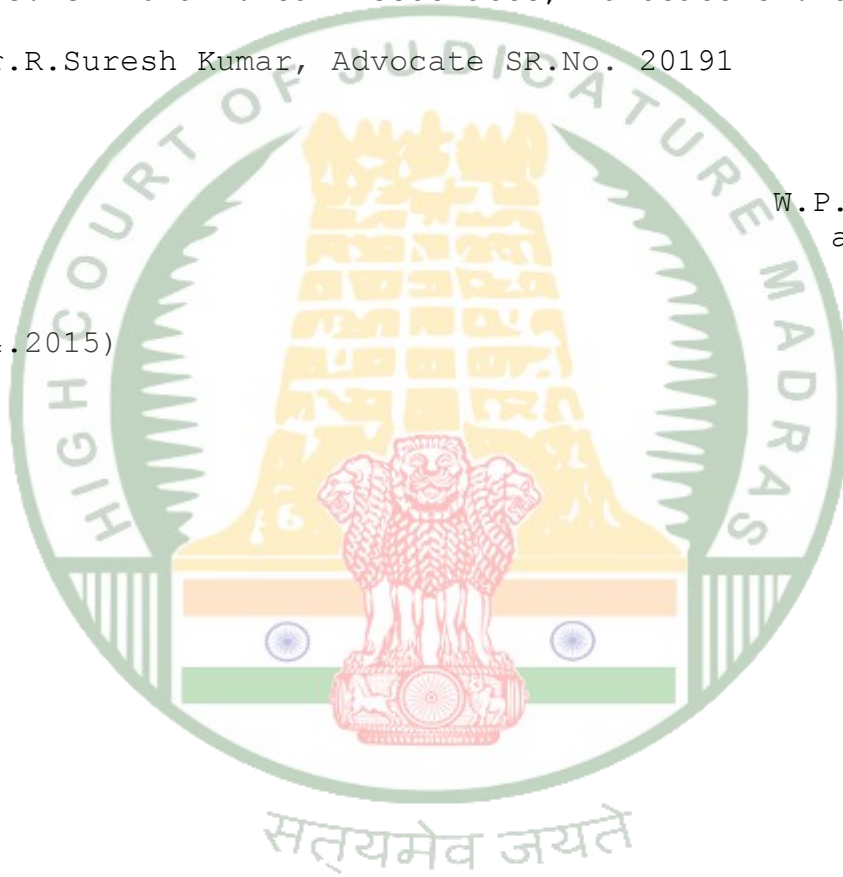
3. Administrator,
Annamalai University,
Annamalai Nagar, Chidambaram.

1 CC to M/s. Giridhar & Sai Associates, Advocate SR.No. 20300

1 CC to Mr.R.Suresh Kumar, Advocate SR.No. 20191

W.P.No.23762 of 2013
and connected MPs

KM (CO)
PSI (24.04.2015)



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