



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition (MD) No.1333 of 2015
and
M.P (MD) No.1 of 2015

K.Ramakrishnan

... Petitioner

Vs.

1.The Managing Director,
TASMAC Limited,
Chennai.

2.The District Manager,
TASMAC Limited,
Theni District.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned transfer order of the first respondent in Se.Mu.No.13753/M1/2014, dated 24.01.2015 served on 31.01.2015 and impugned relieving order of the second respondent in Na.Ka.No.2/2013/A, dated 29.01.2015 and quash the same and pass such further or other orders.

For Petitioner : Mr.K.Appadurai

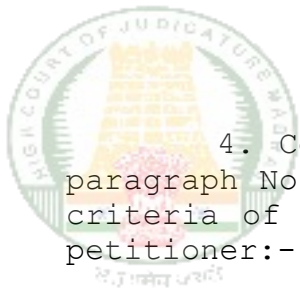
For Respondents : Mr.M.Muniyasamy

ORDER

The petitioner is aggrieved against the order of transfer, dated 24.01.2015.

2. Through the impugned order, the petitioner was transferred from Theni of Madurai Division to Chennai to function as an Assistant Manager on administrative grounds.

3. The main contention in this Writ Petition challenging the said order of transfer is that the same came to be passed in the middle of the academic year, since the petitioner's son is studying 12th Standard in P.K.N.Higher Secondary School at Thirumangalam, who has to write the Public Examination in the month of March, 2015. Further, the petitioner has also filed an affidavit of undertaking on 05.02.2015 to the effect that he is agreeing to go to the transferred place from July 2015 onwards, after the examination of his son is over.



4. Counter-affidavit is filed by the second respondent wherein at paragraph No.4 it is stated that the petitioner was transferred not in the criteria of general transfer, but due to the following misconducts of the petitioner:-

"1. The misappropriation sum of Rs.6,21,470/- committed by employees of the TASMAL Shop No.8625 at Theni District has been known to the petitioner, during that time itself. But he did not inform it to the superiors and the said misappropriation found during the surprise auditing conducted by the Assistant Commissioner (Excise) shows petitioner's dishonesty.

2. The petitioner has supported the illegal sale of bottles by declaring them as open short and sealed short for the purpose of personal gain.

3. The petitioner has not obeyed the orders of the superior and assigning his official work to the contract labourers without doing himself.

4. The petitioner has threatened the District Manager, by way of giving report to the newspapers."

5. From the stand of the respondents shown in the counter-affidavit, it is evident that even though the order of transfer was passed as though on administrative reasons, in fact it is passed as a punitive measure, in view of the above stated admitted position.

6. Needless to say that if such transfer is made as a punitive measure, the petitioner should be put on notice before passing such order. In this case, it is not the case of the respondents that the petitioner was issued with any notice before passing the order of transfer. Therefore, it is well settled that a punitive transfer cannot be made without hearing the person so transfer. Therefore, this Court is convinced that the impugned order cannot be sustained, as the same was made in violation of principles of natural Justice.

7. Accordingly, the Writ Petition is allowed and the impugned order is set aside. It is open to the respondents to take appropriate proceedings in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To

1.The Managing Director, TASMAL Limited, Chennai.

2.The District Manager, TASMAL Limited, Theni District.

+1cc to M/S. K.Appadurai, Advocate in SR.No. 60888

<https://hcservices.ecourts.gov.in/hcservices/>

18/03.03.2015/21-40

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