

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.9862 of 2016

A.Chinnasamy

.. Petitioner

Vs

The District Collector,
Collectorate,
Salem District.
Salem - 1.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records relating to the proceedings dated 26.02.2016 made in Roc.No.48144/2010/A2 passed by the respondent and quash the same and direct the respondent herein to appoint the petitioner immediately in appropriate post with appropriate seniority and appropriate place with appropriate time within the Salem District Revenue Unit.

For petitioner : Mr.A.Rajakumar

For Respondent : Mr.A.Kumar, Spl.GP

O R D E R

By way of filing this writ petition, the petitioner seeks to quash the impugned proceedings dated 26.02.2016 of the respondent / the District Collector, Salem, transferring him from Salem District Revenue Unit to The Nilgiris District Revenue Unit.

2. It is the contention of the learned counsel appearing for the petitioner that as per the Tamil Nadu Revenue Subordinate Service Rule, the Board of Revenue is the competent authority to transfer the petitioner from one District Revenue Unit to another District Revenue Unit. He further submitted that the Board of Revenue consists of the Commissioner of Land and Administration, the Commissioner of Revenue Administration and the Commissioner of Survey Land and Records and the Director of Settlement Officers. While such being the scenario for

transfer, the respondent is not the competent authority to pass impugned transfer order as stated above.

3. Learned counsel for the petitioner further submitted that the Government, vide G.O.Ms.No.431, Personnel and Administration Reforms (Per.M) Department, dated 25.04.1981, have already accepted the recommendation of the District Collector, Nilgiris, in suggesting not to post the officers who are above the age of group of 40s and 50s at the Nilgiris District. Therefore, when such being the admitted position, the respondent ought not to have passed the impugned transfer order transferring the petitioner from Salem District Revenue Unit to the Nilgiris District Revenue Unit. Hence, on this score, he prayed for setting aside the impugned transfer order.

4. Learned Special Government Pleader appearing for the respondent, by placing on record the proceedings dated 04.01.2016 of the Principal Secretary / Commissioner of Revenue Administration, Chepauk, Chennai, submitted that only the Principal Secretary to Government has passed the transfer order dated 04.01.2016 transferring the petitioner from the Salem District Revenue Unit to the Nilgiris District Revenue Unit on administrative grounds. In the said transfer order, the Principal Secretary to Government has also requested the District Collector, Salem, to relieve the petitioner immediately after revoking his suspension. He has also further brought to the notice of this Court another proceedings dated 17.02.2016 issued by the Joint Commissioner (R.A.) for the Principal Secretary / Commissioner of Revenue Administration, Chennai, wherein it is seen that the Joint Commissioner has also requested the District Collector, Salem, to issue a revised order to the petitioner by specifically quoting the office proceedings dated 04.01.2016 of the Principal Secretary / Commissioner of Revenue Administration, Chennai. In such view of the matter, the contention of the petitioner that the respondent is not the competent authority to transfer the petitioner from Salem District Revenue Unit to the Nilgiris District Revenue Unit cannot be sustained.

5. Further, It is settled legal proposition that transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No Government servant or employee of Public Undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in that matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. In the case on hand, as stated above, the Principal Secretary / Commissioner of Revenue Administration, Chennai, has passed the transfer order dated 04.01.2016 transferring the petitioner from Salem District

Revenue Unit to the Nilgiris District Revenue Unit on administrative grounds. Thereafter, the Joint Commissioner has also in his proceedings dated 17.02.2016, directed the District Collector, Salem, to issue the revised order by quoting the transfer order passed by the Principal Secretary. Therefore, the District Collector, Salem, by following the said orders of the competent authority, has passed the present impugned transfer order dated 26.02.2016 as stated above. Thus, the challenge made by the petitioner questioning the impugned transfer order cannot be sustained.

6. Another contention of the learned counsel for the petitioner is that the Government, vide G.O.Ms.No.431, Personnel and Administration Reforms (Per.M) Department, dated 25.04.1981, have accepted the recommendation of the District Collector, Nilgiris, in suggesting not to post the officers who are above the age of group of 40s and 50s at the Nilgiris District, hence, the petitioner, who is aged about 55 years, ought not to have been transferred. Such contention also cannot stand to legal scrutiny, for, in the above said G.O., the Government, while recommending the suggestion of the District Collector, Nilgiris, directed all the Heads of the Departments to consider the posting of young officers who are below 40 years of age to the Nilgiris District as far as possible. Thus, in my view, the Government directed to post the officers below the age of 40 years only as far as possible, not as a mandatory one.

7. Therefore, for the reasons stated above, I do not find any merit in the writ petition filed by the petitioner challenging the impugned transfer and accordingly, it is dismissed. No Costs.

Sd/-

Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

rkm

To

The District Collector,
Collectorate,
Salem District.
Salem - 1.

+1cc to Mr.A. Raja Kumar, Advocate, S.R.No.17154

+1cc to the Government Pleader, S.R.No.17418

LRS (CO)
EU(05/04/2015)

W.P.No.9862 of 2016



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