



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2016

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

WEB COPY

W.P. (MD) .Nos.11160 and 12298 of 2016
and
W.M.P. (MD) .Nos.9373 to 9375 of 2016

C.Selwyn Raj

.. Petitioner in both WPs

Vs.

The General Manager (Tamil Nadu),
Food Corporation of India,
Regional Office,
Chennai.

.. Respondent in W.P.(MD).No.11160/2016

1.The General Manager (Tamil Nadu),
Food Corporation of India,
Regional Office,
Chennai.

2.The Area Manager,
Food Corporation of India,
District Circle,
3rd Mile, Thoothukudi,
Thoothukudi District.

.. Respondent in W.P.(MD).No.12298/2016

W.P.(MD).No.11160 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent herein to consider the petitioner's representation dated 23.05.2016 requesting for retention at the district office, Thoothukudi, which had been forwarded through proper channel.

W.P.(MD).No.12298 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent herein in O.O.No.83/2016/E.I. Dated 17.05.2016 and consequential order in L.R.No.E.I/2(1)/2016 dated 06.07.2016 and 11.07.2016 and quash the same.

For Petitioner : M/s.A.Thiruvadi Kumar

For Respondents : Mr.M.Kumar

COMMON ORDER

Since the issue involved in both the Writ Petitions is one and the same, they are taken up together and disposed of, by this common order.

2. Mr.C.Selwyn Raj, filed W.P.(MD).No.11160 of 2016, directing the respondent therein to consider the petitioner's representation, dated 23.05.2016 requesting for his retention at the District Office, Thoothukudi. In the said Writ Petition, the petitioner challenged the order of transfer on the ground that the said transfer order is against the "Transfer Policy Guidelines" issued by the respondents. Among other things, it is stated therein that the employees, whose children are in Class X to XII, may not be transferred and their case may be considered by the competent Authority on merits subject to administrative convenience. Since it was submitted on behalf of the petitioner that her daughter was admitted in Class XI at Sri Jeyandra Swamigal Silver Jubilee Matriculation Higher Secondary Class, Tirunelveli, *prima facie*, this Court, finding merits in the contentions of the petitioner, granted an order of *status quo*.

3. In the afore-said circumstances, the petitioner moved the other Writ Petition in W.P.(MD).No.12298 of 2016, challenging the transfer order issued by the respondents, who filed a detailed counter therein.

4. Learned counsel for the petitioner submitted that, as per the Transfer Policy Guidelines, the respondents have to retain the petitioner in the same station, as his daughter is studying XI Standard in Tirunelveli District. In addition thereto, his son is also studying in Tirunelveli District. If the transfer order is given effect to, it would adversely affect the educational standards of the children. Hence, he prayed to quash the impugned order of transfer and also the consequential order passed by the respondents.

6. *Per contra*, learned Standing Counsel appearing for the respondents submitted that the petitioner has been serving for 14 long years in the very same place. The petitioner, instead of joining at Cuddalore, was unauthorizedly absent from work, from 24.05.2016, despite the fact that the petitioner was relieved on 24.05.2016, subsequent to his transfer order, dated 17.05.2016. Further, initially, the petitioner was to admit his daughter in a School at Thiruchengodu, however, later, he retained his daughter at Tirunelveli just to stay back in the present station by pointing out the education of his daughter, as one of the grounds. Even though on two occasions, the petitioner was transferred on administrative grounds, he managed to stay back in the present station. Since the Food Corporation of India is facing acute shortage of staff and if the transfer order is stayed, it would paralyze the functioning of the Institutions.



7. Heard the submissions made on either side and perused the materials available on record.

8. At the time of moving the first Writ Petition, namely, W.P.(MD).No.11160 of 2016, though no miscellaneous petition was moved for staying the operation of the impugned order, this Court, in the light of the transfer policy, granted an order of interim stay. When the matter stood thus, the representation of the petitioner was considered and rejected by the respondents. Further, initially, he wanted to admit his daughter in a School at Thiruchengodu and on that ground, he also availed Causal Leave on 24.05.2016. Subsequently, he retained his daughter at Tirunelveli District, solely to derive benefits from the Transfer Policy Guidelines issued by the respondents. As stated earlier, the petitioner has been in the present station for 14 long years and on two earlier occasions, his transfer was not given effect to and therefore, this Court finds no merit in the contentions of the learned counsel for the petitioner. Therefore, the relief sought for by the petitioner cannot be granted.

9. Accordingly, both the Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

10. At this juncture, the learned counsel for the petitioner submitted that there is a vacancy available in the same district and, at least, as against that vacancy, the petitioner could be accommodated by the respondent in view of his daughter's education. But, the said request could not be considered, as the petitioner twice has already been graciously accommodated by the respondents.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

- 1.The General Manager (Tamil Nadu), Food Corporation of India, Regional Office, Chennai.
 - 2.The Area Manager, Food Corporation of India, District Circle, 3rd Mile, Thoothukudi, Thoothukudi District.
- +One cc to M/s.A.Thiruvadikumar, Advocate, SR.No.38611
+2 ccs to M/s.M.Kumar, Advocate, SR.Nos.38664 and 38665

ssm

RL/6C/2P/CK/30.9.2016

W.P.(MD).Nos.12298 and 11160 of 2016

and

W.M.P.(MD).Nos.9373 to 9375 of 2016