

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-10-2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21531 of 2014

And

M.P.No.1 of 2014

Panner Selvam

..Petitioner

-vs-

The District Welfare Officer,
Adi-Dravidar and Schedule Tribes Department,
Cuddalore District.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the order passed by the respondent in his proceedings in Na.Ka.No.W10/6830/2014 dated 30.7.2014 and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner - Mr.K.Sasindaran for
M/s.Achari and Antoni Associates.

For Respondent - Mr.K.Thangapandi,
Government Advocate.

ORDER

The order of cancellation of the order issued by the respondent in proceedings dated 30.7.2014 is under challenge in this writ petition.

2. The writ petitioner was appointed as Assistant Cook in the Adi-Dravidar Welfare Hostel on 27.8.2011 and he was posted in Government Boys Hostel, Dharmanallore, Cuddalore District. However, the respondent cancelled the transfer order earlier issued on 2.6.2014 in proceedings dated 30.7.2014. Accordingly, the writ petitioner was posted from Kurinchippadi to Virudhachalam.

3. However, the learned counsel for the petitioner states that the writ petitioner is continuing in Kurinchipadi for the past about three years. Thus, the question of considering the claim of the writ petitioner to continue in the same post, cannot be entertained in this writ petition.

4. Transfer is an incidental to service, more-so a condition of service. Transfer to a particular place or a place can never be claimed as a matter of legal right. A Government Servant, wherever posted, has to work. Now that the writ petitioner has already served for more than a period of three years in the Kurinchipadi Station and therefore, the authorities can issue orders in this regard on administrative grounds. Transfer being incidental and a condition of service, the public servants are duty bound to accept the transfer orders and work wherever they are posted. In case of hardships and any exceptional circumstances alone, they can challenge the order of transfer and not this kind of administrative orders of transfer.

5. However, this Court is of the view that an order of transfer can be challenged only on limited grounds and the writ proceedings can be entertained only on exceptional circumstances and not in a routine manner, the order of transfer can be challenged. An administrative transfer can be challenged, if the same was issued by an incompetent authority having no jurisdiction or allegation of mala fides are raised or the same is in violation of the statutory rules. Even in case of raising the allegations of mala fides, the authority against whom such an allegation is raised has to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any of these legal grounds, no writ can be entertained on merits in respect of administrative transfer.

6. Thus, no further adjudication on merits needs to be undertaken in this writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Svn

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To

The District Welfare Officer,
Adi-Dravidar and Schedule Tribes Department,
Cuddalore District.

+1 CC to Mr.K.Sasindaran, Advocate Sr.No.74923

WP 21531 of 2014

GJ(CO)
KP(21.11.2017)



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