

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 10.05.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12346 of 2017
and WMP No.13108 & 13109 of 2017

M.Moorthy .. Petitioner

Versus

1.The District Collector,
Salem District.

2. The Personnel Assistant (Development)
to the Collector,
Salem District, Salem.

3. The Block Development Officer (Village Panchayat),
Mecheri Panchayat Union,
Salem District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of certiorari, calling for the records relating to the order of the 1st respondent dated 21.04.2017 in Na.Ka.No.246/2017/Thi3 and quash the same.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.A.Zakkir Hussain (Govt. Advocate)

ORDER

The challenge in this writ petition is the order of transfer issued by the 1st respondent in proceeding dated 21.04.2017, transferring the writ petitioner from Panchayat Union, Vellar to Panchayat Union, Panamarathupatti and both the places are situated within Salem District.

2. The writ petitioner, is serving as Secretary in Panchayat Union and the transfer order impugned in this writ petition seems to have been issued on administrative grounds.

3. The learned counsel for the writ petitioner contended that the impugned transfer order has been issued without any jurisdiction and authority. Learned counsel cited Tamilnadu Village Panchayat Secretaries (Conditions of Service Rules), 2013. Rule-11, deals with transfer and the same is extracted

"11. Transfer: (1) Transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned.

(2) Transfer and posting within the Block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned, Transfer and postings to other Blocks within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned. The Commissioner/Director of Rural Development and Panchayat Raj is the competent authority to make transfer from one District to another District based on the specific report from the Collector."

4. The core argument advanced before this Court is that Personal Assistant (Development) to the Collector is the appointing authority for the post of Secretary and therefore, the transfer orders issued by the District Collector is without jurisdiction.

5. This Court is unable to accept or appreciate such a contention of the learned counsel for the petitioner, in view of the fact that Personal Assistant to the Collector is subordinate to the District Collector and the legal principal laid down in this regard is that the subordinate officers to the appointing authority alone is prohibited from exercising the jurisdiction. The higher officer or the appellate authority can issue transfer orders, which is on administrative grounds. In any event, the District Collector is the authority as far as the entire District is concerned and he himself has issued the transfer order on administrative grounds. When the higher authority than that of the appointing authority has issued the transfer order, this Court cannot construe that the order of transfer is infirm. Hence, the arguments advanced by the learned counsel relying Rule-11 of Tamilnadu Village Panchayat Secretaries (Conditions of Service Rules), 2013, need not be considered in view of the facts that the transfer order impugned was issued by the District Collector, who is the authority higher than that of the Personal Assistant to Collector.

6. This apart, transfer is an incident to service and the writ petitioner is transferred within Salem District. Further, transfer being condition of service, the public servants cannot have any right over the place or post, unless there are compelling reasons. When there are no such grounds raised in this writ petition, the same deserves no merit

consideration and stands dismissed. There shall be no order as to Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (V.O)

/true copy/

Sub Asst. Registrar

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To

1. The District Collector,
Salem District.
2. The Personnel Assistant (Development)
to the Collector,
Salem District, Salem.
3. The Block Development Officer (Village Panchayat),
Mecheri Panchayat Union,
Salem District.

+1cc to Mr.K.Selvaraj,Advocate sr.37162

+1cc to Government Pleader sr.37224

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ks(co)
ss(15/5/2017)

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