

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.32865 of 2017

Dr.J.Rajamoorthy

.. Petitioner

-vs-

1. The Government of Tamil Nadu
rep by its Principal Secretary
Health and Family Welfare Department
Fort St. George
Chennai 600 009

2. The Director of Public Health
and Preventive Medicine
DMS Complex
Anna Salai
Chennai 600 006

3. The Director of Medical
and Rural Health Services
DMS Complex
Anna Salai
Chennai 600 006

4. The Deputy Director of Health Services
No.52, Perumalkeela Veethi
Nagapattinam 611 001

5. Thiru.O.S.Manian
Minister for Handlooms and Textiles
Oradiyampulam
Thalanyar Post
Vetharaniyam Taluk
Nagapattinam District

6. Thiru.S.Pavunraj
Member of Legislative Assembly
1/18 Vellala Street
Poothanur
Tharangampadi Taluk
Nagapattinam District

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the fourth respondent in Na.Ka.No.3519/2016/A2 dated 30.10.2017 and to quash the same along with all subsequent notice as arbitrary, illegal and malafide and consequently restraining the respondents or any of its subordinates, agents or any other person claiming under the respondents from transferring the petitioner by malafide intention arising out of political vendetta.

For Petitioner :: Mr.R.Singaravelan
Senior Counsel for
Mr.P.Dinesh Kumar

For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 to 4

ORDER

This writ petition has been filed questioning the impugned order of transfer dated 30.10.2017, on the ground that when the petitioner was transferred by an order dated 12.8.2016 passed by the Director of Medical and Rural Health Services In-charge in Ref.No.50213/E3/1/2016-2 on administrative reasons from the post of Chief Civil Surgeon, Government Primary Health Centre, Akkur, Nagapattinam and posted as Chief Civil Surgeon (Pediatrics) at Government Headquarters Hospital, Nagapattinam in the existing vacancy, the learned senior counsel for the petitioner submitted that when the respondents had taken a decision and transferred the petitioner by order dated 12.8.2016, after a lapse of more than one year, they cannot implement the same. The reason is that during the last one year, many developments should have taken place. Without even adverting to the subsequent developments that have taken place, the old order dated 12.8.2016 should not have been belatedly implemented. Secondly, he has submitted that when the Hon'ble Minister visited the hospital in which the petitioner was posted and serving as Chief Civil Surgeon, he had directed the petitioner to provide bed facilities without knowing that the hospital was newly constructed and the doctors not being provided with the infrastructural facilities including the beds for the patients were unable to comply with the request/direction issued by the Hon'ble Minister. In view thereof, the impugned order of transfer has been passed.

2. But this Court is unable to accept the said contentions for the following reasons. Firstly, citing administrative reason, Dr.J.Rajamoorthy, MBBS, DCH, Chief Civil Surgeon, Government Primary Health Centre, Akkur, Nagapattinam was transferred and posted as Chief Civil Surgeon (Pediatrics) at Government Headquarters Hospital, Nagapattinam in the existing vacancy by order dated 12.8.2016. For the reasons best known to the respondents, the said order could not be implemented. After a lapse of one year, the said order, which is bound to be implemented, has been at last implemented by passing the present impugned order. Secondly, the petitioner has been transferred within the same District Nagapattinam, namely, from Government Primary Health Centre, Akkur, Nagapattinam Health Unit, to Government Headquarters Hospital, Nagapattinam. Thirdly, the fourth respondent, due to administrative exigency, has passed the impugned transfer order effecting the transfer of five Chief Civil Surgeons. Therefore, it is not the case as if the transfer order is passed only against the petitioner alone. When the five Chief Civil Surgeons working in various districts are transferred within their own district, it is not known how the petitioner can complain that he has been put to inconvenience.

3. Besides, it is a settled legal proposition that transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other place is an incident of service. No Government servant or employee of Public Undertaking has a legal right for being posted to 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. When the impugned order of transfer passed by the fourth respondent due to administrative exigency cannot be questioned by the petitioner, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. Consequently, W.M.P.Nos.36531 & 36532 of 2017 are also dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

SS

To

1. The Principal Secretary to Government
Health and Family Welfare Department
Fort St. George
Chennai 600 009

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and Preventive Medicine
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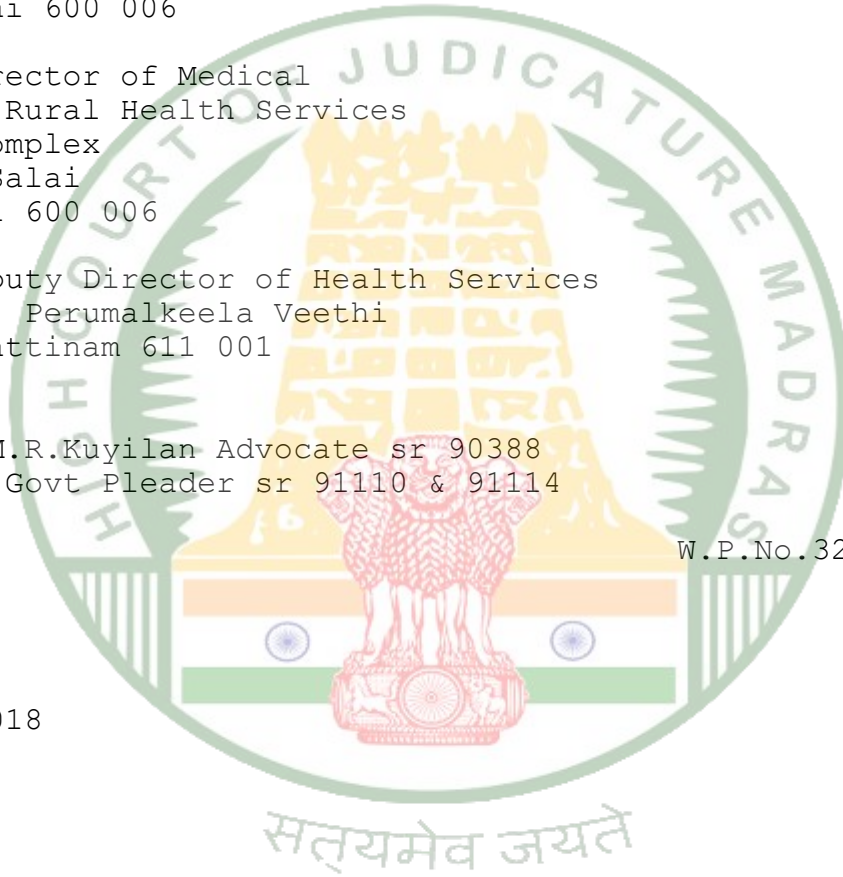
4. The Deputy Director of Health Services
No.52, Perumalkeela Veethi
Nagapattinam 611 001

+1 cc to M.R.Kuyilan Advocate sr 90388

+2 ccs to Govt Pleader sr 91110 & 91114

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