

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.13254 of 2017
W.M.P.Nos.14241 & 14242 of 2017

P. Kamala Kannan

... Petitioner

Vs.

1. The Managing Director
Repco Bank Limited,
Head Office,
No.33, North Usman Road,
T.Nagar, Chennai - 600 017.
2. The Chief General Manager
Repco Bank Limited,
Administration Department,
Personnel Wing,
Head Office,
No.33, North Usman Road,
T.Nagar, Chennai - 600 017.
3. The Liaison Officer
SC/ST Cell,
Repco Bank Limited
Head Office,
No.33, North Usman Road,
T.Nagar, Chennai - 600 017.
4. The Regional Director,
National Commission for Scheduled
Caste & Scheduled Tribes,
2nd Floor, Block 5,
Shastri Bhawan,
Chennai 600 032.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to consider my transfer request to Chennai on the Petitioner's petition dated 29.04.2017.

For Petitioner : Mr.S.Radhakrishnan

For Respondents : Mr.A.Ilangovan (For R1 - R3)

O R D E R

The prayer sought for in this writ petition is to consider the representation given requesting transfer order to Chennai dated 29th April 2017. The claim set out by the writ petitioner is that, initially he was working in Chennai and thereafter transferred to Dharmapuri and the writ petitioner is now transferred to Madurai.

2. Learned counsel appearing for the respondents states that the writ petitioner has not joined in the transferred post at Madurai, in spite of the fact that he was relieved from Dharmapuri. The learned counsel also submitted that the writ petitioner continued to be in unauthorised absence.

3. But, the learned counsel appearing for the writ petitioner submits that the writ petitioner is on leave. However, it is for the respondents to find out the facts and proceed with further action in this regard.

4. The Court is unable to understand the writ petitioner, who is working in the cadre of Chief Manager, filing this writ petition with a prayer for a direction to transfer him from Dharmapuri to Chennai. His position as an office bearer of SC/ST Employees Welfare Association is no way connected with the service conditions as Chief Manager of the respondent bank.

5. Learned counsel appearing for the petitioner submits that there is a Central Government memorandum stating that an employee has to be considered in a place where his spouse is employed. The writ petitioner states that his wife is employed in LIC at Chennai and therefore, he is entitled for transfer from Dharmapuri to Chennai.

6. Such an argument advanced by the learned counsel for the petitioner cannot be considered, in view of the fact that transfer is an incident to service and more so, it is a condition of service. The writ petitioner, who is working in the higher cadre of Chief Manager, cannot seek transfer to the place of his choice. As per the service condition, an employee is liable to be transferred and it is his duty to work in a place where he is posted.

7. This Court is of the opinion that the post of Chief Manager is an important one and he has got a duty and responsibility to manage the entire branch. Such being the responsibilities fixed on the Chief Manager, he cannot choose the post as per his wish. The employment of the spouse may be a concern but it will not confer any right on the writ petitioner to seek transfer from Dharmapuri to Chennai. It is for the respondents to consider all these aspects on sympathetic grounds. But this Court cannot direct the respondents to consider the representation of transfer of the petitioner from Dharmapuri to Chennai on sympathetic grounds. The administrative decisions are taken by the authorities and it is their prerogative to transfer an employee from one station to another station.

8. The transfer order can be challenged by way of writ petition only on exceptional circumstances. More specifically, order of transfer can be challenged on the ground that the authority who has issued the order has no jurisdiction, incompetency or issued with a malafide intention to harass the employee. In the absence of any of these grounds, no writ can be entertained questioning the transfer.

9. In this writ petition, even the order of transfer transferring the writ petitioner from Chennai to Dharmapuri has not been challenged. Contrarily, a writ of mandamus is filed seeking a direction to transfer the writ petitioner to Chennai. Hence, the scope of this writ petition is limited and the ground raised in this writ petition deserve no merit consideration and accordingly, the writ petition stands dismissed. However, there is no order as to costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

maya

+1cc to Mr.A.Ilangovan, Advocate, S.R.No.47100

+1cc to Mr.S.Radhakrishnan, Advocate, S.R.No.46776

W.P.No.13254 of 2017

CS V

CA(13/07/2017)