

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3863 of 2017

N.Elangovan

.. Petitioner

-VS-

1. The Principal Secretary to Government
of Tamil Nadu
Micro, Small & Medium Enterprises Department
Fort St.George
Secretariat
Chennai 600 009

2. The Additional Chief Secretary / Industries
Commissioner and Director of Industries
and Commerce
SIDCO Corporate Office Building
Guindy, Chennai 600 032

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in connecting with the impugned order of transfer in G.O.(Rt) No.250 Micro Small and Medium Enterprises [E1(1)] Department dated 15.12.2016 and quash the same in so far as the petitioner is concerned and directing the first respondent to pass orders based on the proposal of the second respondent relying upon the report of the Medical Board dated 07.02.2017 and in accordance with G.O.Ms.No.431 P & AR Department dated 25.04.1981 as requested in the representation dated 10.02.2017 of the petitioner to post him in any of the existing vacancies in the other District (Perambalur and Pudukkottai) within a short time.

For Petitioner :: Ms.T.Aananthi

For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by Mr.P.Sanjay Gandhi
Additional Government Pleade

ORDER

This writ petition has been brought before this Court challenging the impugned order of transfer on the ground that posting the petitioner at Ooty is not going to serve any purpose for two reasons. Firstly, the petitioner is a patient suffering from eosinophilia, chronic bronchitis based on clinical condition and investigation done. A medical certificate also has been issued by the Medical Board of Rajiv Gandhi Government General Hospital, Chennai. If the petitioner out of compulsion is forced to accept the order of transfer to Ooty, he has to suffer irreparable loss. Secondly, the impugned order is also not legally maintainable, in view of the G.O.Ms.No.431, Personnel and Administrative Reforms Department dated 25.4.81, wherein the Government, accepting the recommendation of the District Collector, The Nilgiris, directed all the Heads of Department to consider the posting of young officers who are below the age of 40 years, thinking that the officers above the age of 40 years, more particularly, at the age of 50 and above, would not be in a position to acclimatize to the severe cold in Ooty. In the present case, the impugned order of transferring 11 officers clearly shows that many of them are in the age group of 40 to 44 years. Therefore, the respondents, taking note of the representation given by the petitioner mentioning his physical condition supported with medical certificate, should have accommodated the petitioner outside Ooty region. As it has not been done, the petitioner has been constrained to come to this Court.

2. Heard the learned counsel for the petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

3. A perusal of G.O.Ms.No.431, P & AR Department dated 25.4.81 also shows that young officers who are below the age of 40 years can be considered for transfer. Since the petitioner is above the age of 50 and also suffering from the above mentioned medical problem, the learned Additional Advocate General for the respondents placed before this Court two vacancies available at Perambalur and Pudukkottai districts. Considering the fact that the petitioner is suffering from eosinophilia, chronic bronchitis problem, which is also evident from the medical certificate issued by the Medical Board of Rajiv Gandhi Government General Hospital, Chennai, the respondents are directed to recall the impugned transfer order and consider posting the petitioner in any one of the aforementioned two places, within a period of two weeks from the date of receipt of a copy of this order. With this direction,

the writ petition is disposed of accordingly. Consequently,
W.M.P.No.3928 of 2017 is closed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

ss

To

1. The Principal Secretary to Government
of Tamil Nadu
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Chennai 600 009
2. The Additional Chief Secretary / Industries
Commissioner and Director of Industries
and Commerce
SIDCO Corporate Office Building
Guindy, Chennai 600 032

+lcc to M/S.T. Aananthi, Advocate Sr. 19280

W.P.No.3863 of 2017

NRI (CO)
BVR(07/04/2017)

सत्यमेव जयते

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