

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21278 of 2015

and

M.P.No.1 of 2015 & W.M.P.No.26634 of 2017

D.Senthilvelu

... Petitioner

Vs.

1.THE MEMBER SECRETARY,
Pondicherry Institute of Post Matric Technical
Education (PIPMATE), Lawspet,
Puducherry-605008.

2.THE PRINCIPAL,
Karaikkal Polytechnic College,
Karaikkal.

3.THE PRINCIPAL I/C,
Dr.B.R. Ambedkar Polytechnic College,
Yanam.

4.THIRU.V.RADJINDIRANE,
Physical Director,
Dr.B.R.Ambedkar Polytechnic College,
Yanam.

5.TMT.A.JAYALAKSHMI,
Women's Polytechnic College,
Puducherry.

6.THE EDUCATION SECRETARY-CUM-CHAIRMAN,
Pondicherry Institute of Post Matric Technical
(PIPMATE), Lawspet,
Puducherry-605008.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the first respondent's impugned order of transfer in No.A/6/2/1/2012/PIPMATE/A3/624 dated 13.7.2015, to quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.L.Chandrakumar
For R1 to R3 & R6 : Mr.T.P.Manoharan,
Senior Counsel for
Mr. T.M.Naveen
For R4 & R5 : No Apperance

O R D E R

The order of transfer is under challenge in this writ petition mainly on the ground that the post is a non-transferable post.

2.However, the learned Senior Counsel appearing on behalf of the respondents informed this Court that the post is a transferable post and the first respondent, Pondicherry Institute of Post Matric Technical Education (PIPMATE), Lawspet, Puducherry is administering four colleges in four regions and the employees are liable to be transferred, within these colleges administered by the first respondent as per the transfer policy of the Management.

3.Thus, the learned Senior Counsel said that the contention of the writ petitioner is that it is not a transferable post is incorrect and it is contrary to the service regulations of the first respondent and the post in which the petitioner is working is a transferable post. Even in earlier occasion he was transferred and he joined in that post, and at that point of time he has not raised any objection.

4.This Court is of the opinion that the writ petitioner is working as a Physical Director in Karaikal Polytechnic College, Karaikal and now he has been transferred to Dr. Ambedkar Polytechnic College, Yanam. This Court is of the view that transfer is incidental to service more so, a condition of service. Further it is informed by the learned Senior Counsel for the writ petitioner that the writ petitioner is in the same station for about eighteen years. When the petitioner is working in a transferable post, then, he is liable to be transferred in accordance with the transfer policy of the Management and therefore, the present writ petition deserves no merits consideration.

5.Transfer being an incidental to service, an employee wherever posted has to work in the interest of the public as well as in the interest of the administration. An order of transfer can be challenged on limited grounds and a writ can be entertained only on exceptional circumstances. The order of transfer can be challenged if the same is issued by an authority having no jurisdiction or competency or if allegation of mala fides are raised or if the same is in violation of any statutory rules. Even in case of raising the allegations of mala fides,

the authority against whom such an allegation is raised, to be impleaded as party respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ can be entertained against the order of transfer.

6. In the case on hand, the writ petitioner is working in the same station at Karaikal for about eighteen years and now he has been transferred to Yanam on administrative ground. The writ petitioner has failed to establish any one of the legal grounds stated as above, therefore, the writ petition deserves no further consideration at all.

7. Accordingly, the Writ Petition stand dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

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To

1. THE MEMBER SECRETARY,
Pondicherry Institute of Post Matric Technical
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Karaikkal.
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Dr.B.R.Ambedkar Polytechnic College,
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4. THE EDUCATION SECRETARY-CUM-CHAIRMAN
Pondicherry Institute of Post Matric Technical
(PIPMATE), Lawspet,
Puducherry-605008.

+1cc to Mr.K.P.Jotheeswaran, Advocate SR.No.89375
+1cc to Mr.L.Chandra Kumar, Advocate SR.No.89553

W.P.No.21278 of 2015

GJ(CO)
GN(02/02/2018)