

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15379 of 2017 &
W.M.P.No.16694 of 2017

K.T.Sakthivelu

..Petitioner

vs.

1. The Principal Secretary/Commissioner,
Land Survey and Land Records,
Chepauk, Chennai.
2. The Regional Deputy Director,
Land Survey and Land Records,
Coimbatore.
3. The Assistant Director,
Survey and Land Records,
Collecorate Buildings,
Erode - 11.
4. The Revenue Tahsildar,
Gobichettipalayam Taluk Office,
Gobichettipalayam,
Erode District.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for records of the impugned transfer order passed by the third respondent in his proceedings in Na.Ka.A2/2757/2017 dated 07.06.2017 and consequential relieving order passed by the 4th respondent in his proceedings in Na.Ka.No.2826/2017/S1 dated 07.06.2017 and quash the same and consequently direct the respondents 3 and 4 to allow the petitioner to work in the 4th respondent office as a Nambiyur, Firka Surveyor.

For Petitioner	...	Mr.D.Ravichander
For Respondents	...	Mr.K.Dhananjayan Spl.G.P.

O R D E R

The order of transfer and the consequential order of relieving are challenged in this writ petition. On a perusal of the impugned transfer order, the writ petitioner who is holding the post of Firka Surveyor is transferred from Nambiyur, Gobichettipalayam Taluk Office, Erode District to Kilambadi, Kodumudi Taluk Office, Erode District. The transfer order was issued on administrative grounds. Pursuant to the transfer order, the petitioner was relieved from the post on 07.06.2017.

2. The Learned counsel appearing for the petitioner contended that already a notice for enquiry was ordered directing the writ petitioner to participate in the enquiry. Therefore, the order of transfer is punitive in nature. This apart a charge memo was also issued in proceedings dated 1st June 2017. Since the charge memo was issued against the writ petitioner, he was transferred and therefore the impugned order of transfer is punitive in nature and liable to be scrapped.

3. The learned Special Government Pleader appearing on behalf of the respondents would submit that the order of transfer is on administrative grounds and framing of the charge memo or calling the writ petitioner for enquiry can never be construed as a bar for ordering transfer on administrative grounds.

4. Considering the arguments advanced by the respective counsel, this Court is of the opinion that the transfer is incidental to service, more so a condition of service. Further an order of transfer issued by on administrative grounds cannot be said to be punitive, in the absence of any material on that. Issuance of a charge memo or calling the writ petitioner for enquiry cannot be construed or compared with the transfer order issued on administrative grounds. Probably, on a account of the charge memo, the authorities thought fit to transfer the writ petitioner. Even such cases, it cannot be interpreted as the transfer order is punitive in nature.

5. This Court is of the opinion that even in a case where a charge memo has been issued against an employee and if there is an apprehension or likelihood of tampering the witnesses or causing or creating influence in the course enquiry, it is for the appropriate authority to decide in the interest of administration an order of transfer can be issued or not. In that point of view also it is possible while issuing transfer order which cannot be said to be punitive.

6. Thus, this Court is of the firm opinion that an order of transfer may be challenged on limited grounds in exceptional circumstances and not in a routine manner. The grounds raised in this writ petition deserves no further consideration and the writ petitioner has to face the charges independently and the order of transfer passed on administrative grounds deserves no further consideration.

7. Accordingly, the Writ Petition stands dismissed. However no order as to costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

dm/rpa

To

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+1 CC to Mr.D. Ravichandar, Advocate sr 48570

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SP(29/07/2017)