

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-11-2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1742 of 2014

And

M.P.No.2 of 2014

P.Murali .. Petitioner

-vs-

- 1.The Registrar,
Tamil Nadu Fisheries University,
Nagapattinam District.
- 2.The Director,
Institute of Fisheries Technology,
Ponneri-601 204,
Tiruvallur District.
- 3.The Professor cum Head Fisheries Research
cum Extension Centre,
Madhavaram Milk Colony,
Chennai-600 051. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records and quash the transfer order passed by the second respondent in No.630/DR/Estt./IFT-Ponneri/TNFU/2014 dated 6.1.2014.

For Petitioner - Mr.S.Sugendran

For Respondents - Mr.R.Vijayakumar,
Additional Government Pleader.

ORDER

The relief sought for in this writ petition is to quash the order of transfer passed by the second respondent in proceedings dated 6.1.2014.

2. The learned counsel, appearing on behalf of the writ petitioner, states that the writ petitioner is differently abled person, having the disability of 47%.

3. The writ petitioner was appointed as a Casual Labourer as an attendant in the first respondent-Office in the year 1991. Subsequently, by an order dated 12.5.2006, the writ petitioner was appointed as an attendant in Tanuvas on regular basis. Further, he was posted at Lab Animal Medicine at Madhavaram Milk Colony, Chennai-51. The writ petitioner pleads that his wife is taking some medical treatment and his children are studying in the school. Therefore, the transfer order is causing inconveniences for the normal family life.

4. The learned Additional Government Pleader, appearing on behalf of the respondents, states that the order of transfer was administrative in nature. The writ petitioner was transferred from Chennai to Tuticorin, on administrative grounds. There was no infirmity in the order.

5. This apart, the learned Additional Government Pleader brought to the notice of this Court, that no interim order was granted by this Court and the writ petitioner has not joined in either of the places. He remained unauthorised absent for about 2-1/2 years and therefore, the respondents are initiating appropriate action under the Discipline and Appeal Rules.

6. This Court raised a concern that how the writ petitioner is allowed to continue in unauthorised absence for more than 2-1/2 years without any action. The inaction of the respondents, in this regard, is to be deprecated. An employee, who has not joined in the transferred place and remained in absent unauthorisedly, then the Competent Authority is bound to initiate disciplinary action in accordance with the rules.

7. The learned Additional Government Pleader further brought to the notice of this Court that during the period of absence, the writ petitioner was engaged himself in his own private business activities, which includes managing a couple of trucker lorries at Harbour, engaging taxi service. The writ petitioner owns Sumo vehicle and other vehicles and apart from this, he is looking after a Prawn Farm at Thiruvallur District near Ponneri. The writ petitioner also owned a newly built house measuring approximately 2,000 sq. Ft., at Manjampakkam. Thus, the statement that he is suffering and struggling to look after his family is absolutely false.

8. It is needless to state that a public servant, who is engaged in a private business, is to be punished under the Rules in force. A public servant cannot engage himself in a private business or otherwise. If the materials and evidences are available with the respondents, then they are bound to initiate action in this regard also. In respect of the impugned order of transfer, this Court is of the opinion that the transfer is incidental to service, more-so, a condition of service.

9. The order of transfer is administrative in nature. The transfer order can be challenged in a writ proceedings if the same is issued by an incompetent authority or the allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Administrative transfers cannot be interfered with in a routine manner. The writ petition against an order of administrative transfers shall be entertained only under exceptional circumstances and not in a routine manner. An order of transfer can be questioned on the ground of jurisdiction, incompetency and on the allegation of mala fides. Even in case of raising the allegation of mala fides, the authority against whom such an allegation is raised to be impleaded as a party in writ proceedings in his personal capacity. In the absence of any of these legal grounds, no writ can be issued against the order of transfer.

10. In the case on hand, the writ petitioner has made an attempt to plead his personal grievances than that of any legal grounds. Even in respect of personal grievances, the learned Additional Government Pleader brought to the notice of this Court that the writ petitioner, by remaining unauthorised absent, is involved in private business activities and owned vehicles, properties etc.

11. This being the submissions made, this Court is not inclined to consider the grounds raised in this writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Registrar,
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Nagapattinam District.
- 2.The Director,
Institute of Fisheries Technology,
Ponneri-601 204,
Tiruvallur District.
- 3.The Professor cum Head Fisheries Research
cum Extension Centre,
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Chennai-600 051.

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RRK(12/12/2017)



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