

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.27212 of 2017

R.Guganesh

.. Petitioner

-vs-

1. The Government of Tamil Nadu
represented by the Principal Secretary
to Government
Environment and Forest (FR1) Department
Secretariat
Chennai 600 009
2. The Principal Chief Conservator of Forests
& Head of Forest Department
Panagal Building, Saidapet
Chennai 600 015
3. Mr.N.V.Nagaiah .. 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 G.O.(Rt) No.740 Environment and Forest (FR1) Department dated 19.10.2017 and quash the same and to direct the first respondent to retain the petitioner as Forestry Extension Officer at Vaigai Dam, Theni until the completion of his normal tenure of the years or until completion of this financial year.

For Petitioner:: Mr.M.Ravi

For Respondents:: Mr.C.Manishankar
Additional Advocate General
assisted by Mr.M.Santhanaraman
Additional Government Pleader (F)
for R1 & 2

ORDER

This writ petition is directed against the impugned order of transfer posting the petitioner, who is serving as Forestry Extension Officer at Vaigai Dam, Theni, as Assistant Conservator of Forests, Megamalai Wildlife Sanctuary, Theni.

2. Learned counsel for the petitioner, assailing the impugned order, contended that when the petitioner has been entrusted with some sensitive project, before completion of the same, the respondents 1 & 2 cannot disturb him, only for the purpose of accommodating the third respondent. Continuing his arguments, he submitted that the third respondent has been included in the panel fit for promotion to the post of Deputy Conservator of Forests. Since the promotional panel had been made ready, even if the third respondent is brought to the petitioner's place, he would not be able to continue for a long time, as a result the place from where the petitioner is disturbed would be always vacant. In turn, the project, which has not been completed by the petitioner, would suffer. This apart, the petitioner has been transferred to his own native place, which is also against some of the Government Orders or circulars issued by the Department. Concluding his arguments, he submitted that the petitioner is also suffering from hypertrophy cardiomyopathy (non obstruction) along with concentric left ventricular hypertrophy. Therefore, he has been advised not to stay in any hilly and terrain region. In view of the impugned order, if he is compelled to go to a hilltop, his health also would be put to grave problem. Hence, the impugned order of transfer should be interfered with.

3. Meeting the above points, the learned Additional Advocate General for the respondents 1 & 2, reiterating the plea taken in the counter affidavit filed by the respondents, submitted that the impugned order of transfer is only made on administrative reasons. Therefore, the petitioner cannot challenge the same. Moreover, when a contention is made by the learned counsel for the petitioner that the petitioner should not be transferred in the middle of the project, learned Additional Advocate General argued that as per the remarks received from the Department, the nursery and planting operations have been physically and financially achieved. When 100% achievement has been made by the petitioner and his department, the apprehension made by the petitioner that in the event of his transfer in the middle of the plantation project, he would be sometimes taken for a ride by issuing charge memo or other memo, are all speculative and purely on surmises. Since the entire process of 100% achievement of work, submission of final report and payment to be made have all been completed by the petitioner, he need not unnecessarily bother for any action from the department for non completion of the project even after his transfer, as it is a well established principle that there are records showing the officers in charge of the division and their tenure in the particular division. Therefore, if any lapse is committed by his successor, it is the full responsibility of the successor only and the petitioner cannot take a plea that till the project with which he has been entrusted is completed, he should not be transferred. He also

submitted that when the law is well settled that a transfer order can be challenged only on limited grounds, namely, (a) if there is any mala fide act; (b) if the transfer order is passed in breach of any statutory provision or rule; and (c) if the transfer order is questioned on the ground of want of power or authority, then the Court could interfere. But, in the present case, nowhere the petitioner has averred that there is any mala fide motive or breach of any provision or want of jurisdiction. Hence, no interference is called for.

4. I fully agree with the submissions made by the learned Additional Advocate General for the respondents 1 & 2. It is well settled that the power of the Court to interfere with the transfer order is very limited. When the Apex Court in State of Haryana and others v. Kashmir Singh and another (2010) 13 SCC 306 has laid down the law holding that the Court should not ordinarily interfere with purely administrative matters except where absolutely necessary on account of violation of any fundamental or other legal right of the citizen, this Court, finding that the petitioner has failed to make out a case of absolute necessity, is not inclined to interfere with the impugned order of transfer. Accordingly, the writ petition is dismissed. Consequently, W.M.P.Nos.29082 & 29083 of 2017 are also dismissed. No costs.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

ss
To

1. The Principal Secretary to Government
Environment and Forest Department
Secretariat
Chennai 600 009

2. The Principal Chief Conservator of Forests
& Head of Forest Department
Panagal Building
Saidapet
Chennai 600 015

+ 1 cc to Mr.M.Ravi, Advocate, SR.80056

+ 1 cc to The Special Govt.Pleader, SR.80089

W.P.No.27212 of 2017

NR 08/12/2017