

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 8513 of 2016
&
W.M.P. No. 7579 of 2016

K. Venkatesan ..Petitioner

Vs.

1. The Director of Treasuries and
Accounts, Saidapet,
Chennai 600 015.
2. The Treasury Officer,
Vellore, Vellore District. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent relating to the proceedings in Ref. Rc.No. 34212/15.N2 dated 23.02.2016 and to quash the same as the same is illegal, arbitrary, mala fide and vindictive and to direct the 1st respondent to post the petitioner to Vaniyambadi as Assistant Treasury Officer in the post held by him before his transfer.

For Petitioner :: Mr.N. Thiyagarajan,
Senior Counsel for
Ms.I. Bobby Portia

For Respondents :: Mr.R.A.S. Senthilvel,
Addl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner, while serving as Assistant Treasury Officer, Vaniyambadi, Sub-Treasury, Vellore District, was transferred to Chennai and posted as Senior Superintendent, Pension Pay Office, Chennai, vide order dated 12.01.2016, passed by the 2nd respondent and his subsequent representation, seeking re-transfer, pursuant to the order passed by this Court, was

also rejected vide impugned order dated 23.02.2016 by the 1st respondent and challenging the legality of the same, the petitioner has come forward to file the present writ petition.

3. Mr.N. Thiagarajan, learned Senior Counsel, assisted by Ms.I. Bobby Portia, learned counsel for the petitioner, has drawn the attention of this Court to the typed set of papers and would submit that the petitioner, on an earlier occasion, challenging the order of transfer, filed W.P. No. 1628 of 2016 and this Court, by order dated 19.01.2016, dismissed the writ petition granting liberty to the petitioner to submit a representation seeking re-transfer, on receipt of which, the respondents were directed to consider the same, as expeditiously as possible. Even in the said order, nothing had been indicated that the petitioner was transferred on the basis of allegations, whereas in the counter affidavit filed by the 1st respondent, it is averred, among other things, that on account of complaints, which emanated against the petitioner, with regard to disbursal of stamp papers without affixing the official emblem and also the conduct of the petitioner in abusing the stamp vendors, without giving respect to their age and reputation, he was transferred.

4. It is the further submission of the learned Senior Counsel for the petitioner, admittedly, in the order of transfer, it had not been indicated that the petitioner had been transferred to Chennai from Vaniyambadi, due to the above said complaints and in all fairness, before doing so, the petitioner ought to have been put on notice and after eliciting his response only, he should have been transferred and therefore, prays for interference. Alternately, it is submitted by the learned Senior Counsel for the petitioner that the petitioner is suffering due to neurological disorder and he is taking treatment at Christian Medical College Hospital, Vellore and that his family is permanently stationed at Vaniyambadi and his two children are studying in Vellore and as such, his request for transfer to Vaniyambadi may be sympathetically considered.

5. Per contra, Mr.R.A.S. Senthilvel, learned Additional Government Pleader, appearing for the respondents, has drawn the attention of this Court to the counter affidavit and would submit that since complaints, such as, non-affixture of official emblem on stamp papers and disrespect shown to stamp vendors, were repeatedly, emanating against the petitioner, an in-house enquiry was ordered and based on the report only, a fair decision had been taken to transfer the petitioner to tone up the administration. Therefore, it cannot be faulted with and therefore, prays for dismissal of the writ petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Though the order of transfer does not disclose that the petitioner had been transferred to Chennai, on account of complaints, which emanated against him, the counter affidavit would reveal that, in view of complaints received against the petitioner, an internal enquiry was ordered and based on the report only, he was transferred to Chennai in the interest of administration. It is well-settled position of law that an administrative order need not disclose reasons, but the files should disclose the same. However, taking into consideration of the plea made by the petitioner, in the form of representations dated 01.02.2016 and 15.02.2016, the petitioner is at liberty to submit one more representation to the 1st respondent, enclosing the copies of medical records, including the records relating to the latest treatment given to him, as to the consideration of his request for transfer, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said representation, the 1st respondent is directed to consider the same and after affording an opportunity of personal hearing to the petitioner, pass orders on the said representation, in accordance with law, within a further period of four weeks thereafter and communicate the decision taken, thereon, to the petitioner.

8. The writ petition is disposed of accordingly. No costs. Connected W.M.P. is closed.

s/d-
Assistant Registrar (CS-III)

//True Copy//

Sub-Assistant Registrar

To

1. The Director of Treasuries and Accounts, Saidapet, Chennai 600 015.
 2. The Treasury Officer, Vellore, Vellore District.
- +1 CC to M/s. I. Bobby Portia, Advocate sr 200
+1 CC to The Govt. Pleader, High Court, Madras sr 210

W.P. No. 8513 of 2016

RSK (CO)
sp/25/1