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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition (MD) No.1192 of 2017

and

W.M.P. (MD) No.1009 and 1010 of 2017

C.Swaminathan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Land Survey Records,
Chennai - 600 009.
- 2.The District Collector,
Thirunelveli District,
Thirunelveli.
- 3.The Assistant Director,
Thirunelveli District Land Survey Office,
Thirunelveli.
- 4.The Thasildhar,
Kadayanallur Taluk,
Kadayanallur,
Thirunelveli District.
- 5.The Superintendent,
Office of the Thirunelveli District Land Survey Office,
Thirunelveli.
- 6.The Commissioner,
Kadayanallur Municipality,
Kadayanallur,
Thirunelveli District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 3rd respondent in his Order No.Na.Ka.A1/7792/2016, dated 30.12.2016 and relieving order passed by the 4th respondent in his proceedings in Na.Ka. A3/222/2017, dated 19.01.2017 (which was served on the petitioner on 23.01.2017) and quash the same and to direct the respondents to retain the petitioner at Puliangudi Panchayat for 3 years.



For Respondents : Mr.C.Selvaraj,
Special Government Pleader

ORDER

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This Writ Petition has been filed challenging the order of transfer of the petitioner.

2.The case of the petitioner is that the petitioner, was appointed as Field Assistant under the third respondent on 11.04.2012. However, within a short period, he was transferred to Puliankudi Panchayat on 30.12.2015 and again transferred from Puliankudi to Manoor by the impugned order passed on 30.12.2016. The grievance of the petitioner is that from Puliankudi to Manoor, the distance is 85 kilometers and that frequent transfer is contrary to the policy of the Government.

3.The learned counsel for the petitioner at the time of arguing the writ petition submitted the following points:

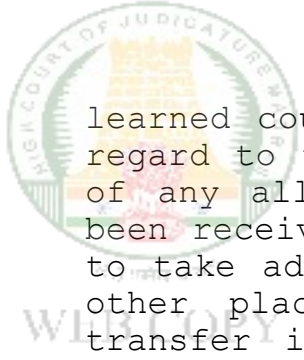
(a) The order of transfer is violative of principles of natural justice inasmuch as the petitioner was not given any opportunity or show cause notice before ordering transfer.

(b) The transfer in this case is not purely on administrative grounds but on the basis of some complaints received against the petitioner. Therefore, the petitioner ought to have been given an opportunity to meet the allegations against the petitioner.

4.The learned counsel for the petitioner relied upon the judgment of this Court in the case of R.Kanchana Mala @ V.R.Kanchana Mala in W.P.No.25259 of 2015, dated 21.08.2015.

5.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6.The impugned order in the present case is purely an order of administrative transfer. It is only due to administrative exigency, the petitioner was transferred by the impugned order dated 30.12.2016 and by the consequential order, the petitioner was relieved from duty with effect from 19.01.2017 so as to report before the Tahsildar, Manoor. Since the transfer is not by way of punishment, the contention of the petitioner that an opportunity should have been given to the petitioner or that the petitioner should have been given a show cause notice before the transfer, is not sustainable. It is a settled position of law that no opportunity need to be given to the petitioner when the transfer of the petitioner is purely on administrative reasons and that no stigma is attached by such transfer. The second submission of the



learned counsel for the petitioner is also not sustainable, having regard to the position that the impugned order is not on the basis of any allegations against the petitioner. When complaints have been received against the petitioner, it is open to the respondents to take administrative decision to transfer the petitioner to some other place to avoid unnecessary embarrassment. Only if the transfer is by accepting the complaints received as against the petitioner, it is necessary to inform the petitioner about the allegations against the petitioner and to give an opportunity to meet those allegations for which the transfer is effected. Since the impugned order clearly shows that the transfer is purely due to administrative exigencies, there is no scope for entertaining the submissions of the learned counsel for the petitioner. Thirdly, the judgment relied upon by the learned counsel for the petitioner is in respect of a transfer of Panchayat Secretary whose service is governed by the Tamil Nadu Village Panchayat Secretaries (Conditions and Services) Rules, 2013. As per Rule 11 of the said Rule, transfer and postings within the block has to be made by the Block Development Officer. Further, the transfers and postings can be done only in consultation with the Executive Officer of the Village Panchayat concerned. The Rule also requires the authority to state reasons for the transfer. Therefore, it was on the interpretation of Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions and Services) Rules, 2013, this Court, in the case relied upon by the learned counsel for the petitioner, set aside the order of transfer therein and remitted the matter to the Block Development Officer to pass fresh orders in accordance with law in the light of the Rule 11 of the Rules. The present case is entirely different. Here the impugned order is an order of transfer of an employee of the Government who is not governed by the Rules relied upon in the order passed in W.P.No.25259 of 2015, dated 21.08.2015. In that view of the matter, the Writ Petition has no merits and therefore, the same is dismissed. However, there is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government,
Department of Land Survey Records,
Chennai - 600 009.

2.The District Collector,
Thirunelveli District,
Thirunelveli.



3.The Assistant Director,
Thirunelveli District Land Survey Office,
Thirunelveli.

4.The Thasildhar,
Kadayanallur Taluk,
Kadayanallur,
Thirunelveli District.

5.The Superintendent,
Office of the Thirunelveli District Land Survey Office,
Thirunelveli.

6.The Commissioner,
Kadayanallur Municipality,
Kadayanallur,
Thirunelveli District.

+1 cc to MR.MD.IBRAHIM ALI,ADVOCATE,SR NO.13572

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.13716

SRM/CMR

MAS/RR:04.04.2017:4P-9C

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