



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.18265 of 2017
and WMP No.14715 of 2017

P.Ponnuthurai

... Petitioner

Vs.

1. The Commissioner of Backward Classes Welfare,
Chepauk, Chennai
2. The District Backward Classes and Minorities Welfare Officer,
Tirunelveli District
Tirunelveli
3. P.Thiruppathi
Warden,
Govt. Backward Classes School Boys Hostel
Oothumalai
Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records on the file of the 2nd respondent in connection with the impugned order of transfer passed by him in his proceedings in Na.Ka.Nya.2/12428/2016 dated 18.09.2017 (received on 21.09.2017) and quash the same as illegal and arbitrary.

For Petitioner : Mr.K.Gurunathan

For Respondents : Mr.D.Muruganandham

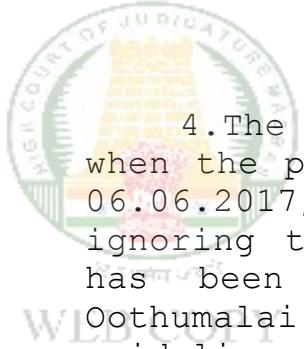
Additional Government Pleader

ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 and 2.

3. Challenging the impugned order of transfer passed by the 2nd respondent in his proceedings in Na.Ka.Nya.2/12428/2016 dated 18.09.2017 (received on 21.09.2017), the petitioner is before this



4.The learned counsel for the petitioner would submit that when the petitioner's request for mutual transfer was accepted on 06.06.2017, thereby posting him at Tenkasi from Senkottah, ignoring the fact that he is a physically challenged person, he has been again transferred to the present place, namely, Oothumalai. Drawing the notice of this Court to the transfer guidelines, the learned counsel for the petitioner submitted that without even prior approval from the District Collector, the present impugned transfer could not be passed.

5.The learned Additional Government Pleader submitted that the petitioner is transferred only to a short distance of 15 kms from his native.

6.In view of the said submission made by the learned Additional Government Pleader, I do not find any merit in the submission made by the learned counsel for the petitioner. When the petitioner is not prejudiced on account of the impugned transfer order transferring to 15 kilometers, the contention made by the learned counsel for the petitioner that only to accommodate the third respondent, the petitioner has been transferred to the present place, is not accepted. It is well settled legal position that transfer is not only an incident of service, but also a condition of service. Further, in the matter of transfer, it is well settled by this Court as well as by the Hon'ble Apex Court in umpteen number of judgments that no transfer order shall be questioned, unless it is proved that the said order is passed malafide or in violation of the statutory rules or the authority, who passes the transfer order has no jurisdiction to pass the same. Since the petitioner has been transferred only to a short distance of 15 kms from his native place, I do not find any grave prejudice caused to the petitioner. The reason is, 15 kms from the native place cannot be an inconvenient to anyone including the petitioner.

7.Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

<https://hcservices.courts.gov.in/hcservices/>
 E-Service of Backward Classes Welfare,
 Chepauk, Chennai



2. The District Backward Classes and Minorities Welfare Officer,
Tirunelveli District
Tirunelveli

+1cc to M/s.K.Gurunathan, Advocate, in SR No.80721

**W.P. (MD) No.18265 of 2017
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22.09.2017**

RR

MKV-PM-PN-SAR 1/22.09.2017/3P-4C