



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE T. RAJA

W.P.(MD)Nos.23917 of 2016, 11768 of 2017 &

Cont.P.(MD).No.1160 of 2017

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W.P.(MD)No.23917 of 2016

P.Karuthathurai

... Petitioner

Vs.

1.The Secretary,  
Transport Department,  
Fort St. George,  
Chennai 600 009.

2.The Transport Commissioner,  
O/o. The Transport Commissioner,  
Chepauk,  
Chennai - 5.

3.The Regional Transport Officer,  
O/o. The Regional Transport Officer,  
Thenkasi,  
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Proc.No.6521/R3/2016 (E.O.No.325/2016), dated 01.12.2016 on the file of the second respondent and quash the same as illegal.

W.P.(MD)No.11768 of 2017

P.Karuthathurai

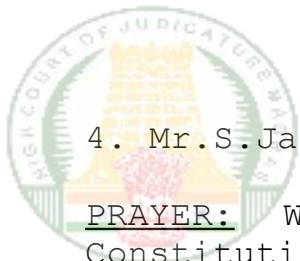
... Petitioner

Vs.

1.The Secretary,  
Transport Department,  
Fort St. George,  
Chennai 600 009.

2.The Principal Secretary / Transport Commissioner,  
O/o. The Transport Commissioner,  
Chepauk,  
Chennai 5.

3.The Regional Transport Officer,  
O/o. The Regional Transport Officer,  
Thenkasi, Tirunelveli District.



4. Mr.S.Jaffer Ali Ahmed

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Proc.No.6521/R3/2017 (E.O.No.386/2017), dated 19.06.2017 on the file of the second respondent and quash the same as illegal.

Cont.P.(MD).No.1160 of 2017

P.Karuthathurai

... Petitioner

Vs.

1.Thiru Dayananth Katariya I.A.S.,  
The Principal Secretary / Transport Commissioner,  
O/o. The Transport Commissioner,  
Chepauk, Chennai 5.

2.Tmt.I.Sasi D.M.E., PD., Aue.,  
The Regional Transport Officer,  
Thenkasi,  
Tirunelveli District.

... Respondents

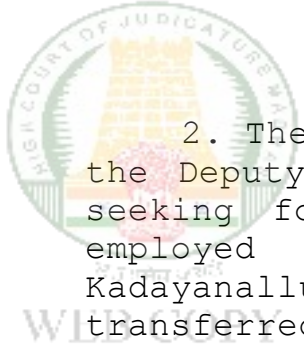
PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, 1971, to initiate contempt proceedings against the contemnors/respondents to punish them for their wilful disobedience of the order of this Court in W.P.(MD).No.11768 of 2017, dated 27.06.2017.

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Proc.No.6521/R3/2017 (E.O.No.386/2017), dated 19.06.2017 on the file of the second respondent and quash the same as illegal.

|                 |                                                     |
|-----------------|-----------------------------------------------------|
| For Petitioner  | : Mr.S.Louis for<br>Mr.T.Lajapathi Roy              |
| For Respondents | : Mr.R.Karthikeyan<br>Additional Government Pleader |

C O M M O N   O R D E R

These writ petitions are filed to quash the impugned orders in Proc.Nos.6521/R3/2016 (E.O.No.325/2016), dated 01.12.2016 and Proc.No.6521/R3/2017 (E.O.No.386/2017), dated 19.06.2017 on the file of the second respondent.



2. The petitioner, while serving as Assistant in the Office of the Deputy Transport Commissioner, Tirunelveli in the year 2014, seeking for a transfer to the nearest place as his wife is employed as Assistant Elementary Educational Officer, Kadayannallur. Accepting the request of the petitioner, he was transferred from Tirunelveli to Puliarai Check Post in Tenkasi, which is coming under the control of the Regional Transport Officer, Thenkasi, on 11.07.2014. However, within two years of short period, he was transferred by order dated 01.12.2016 from Puliarai Check Post to Trichy RTO (West), which is 300 k.ms., away from Puliarai. In the result, the purpose for which the petitioner was brought from Tirunelveli to Puliarai to stay with his wife has been shattered within two years time. On this score, the petitioner came to this Court challenging the transfer order.

3. On 15.12.2016, this Court passed the following order in W.P. (MD).No.23971 of 2016.

"2. From the communication dated 06.12.2016, it is seen that out of three sanctioned posts of Assistants, the petitioner alone is working in the present station and the remaining two posts are vacant. Therefore, the petitioner is permitted to continue in the present station till the new incumbent takes charge.

3. List this matter on 20.01.2017. There shall be an order of interim stay till then. Batta has to be filed within five working days from the date on which the copy of this order is made ready, failing which, the interim stay shall stand automatically vacated, without reference to this Court. In the meanwhile, the respondent is directed to file counter with advance copy to the petitioner."

4. The learned counsel for the petitioner would submit that even during the operation of the order of stay granted by this Court as above, he was not permitted to continue the Office in Puliarai Check Post. However, when he has given his representation after the grant of order of stay, the petitioner was permitted to continue in the same station viz., Puliarai Check Post. But however, by another order of the second respondent, dated 19.06.2017, one Mr.S.Jafar Ali Ahmed, the fourth respondent herein was brought to the petitioner's place, violating the order of stay granted by this Court, on 15.12.2016 and surprisingly, he was sent to Trichy, which is far away from the present station. As a result, the benefit of getting an order of transfer dated 19.06.2017 has been defeated. In view thereof, the petitioner was constrained to file a Contempt Petition. Again, it is submitted that when there are two other posts in Puliarai Check Post, in spite of the order of stay granted by this Court in favour of the



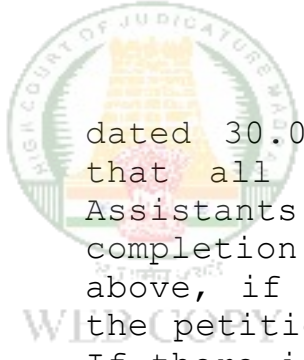
petitioner, on 15.12.2016, the respondent ought not to have disturbed the petitioner, therefore, the present Writ Petitions and the Contempt Petition should be allowed by passing appropriate orders.

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5. A detailed counter affidavit has been filed along with the typed set of papers.

6. The learned Additional Government Pleader appearing for the respondents would submit that when there was a Government Letter (Ms) No.14 (Home) Tr.II Department, dated 30.09.1996, issued by the Secretary to Government stating that all the Motor Vehicle Inspectors (Non-technical), Junior Assistants and the Assistants, who are posted in the Check Post on completion of one year in the respective stations should be transferred, the petitioner was transferred from Puliarai Check Post, Tenkasi to Trichy, as he has completed two years of service in that Check Post. Therefore, when the order of transfer dated 01.12.2016 was passed keeping in mind the letter dated 30.09.1996, no fault can be found with the respondent. Adding further it is stated that the order of stay dated 15.12.2016 passed in W.P.(MD).No.23971 of 2016 has made it clear that the petitioner will be permitted to continue in the present station till a new incumbent take charge. Therefore, Mr.S.Jafar Ali Khan, the fourth respondent was posted at Puliarai Check Post viz., the petitioner's place. Therefore, there is no any violation of the order of stay, dated 15.12.2016.

7. A reading of the order of stay dated 15.12.2016, passed in Writ Petition (MD).No.23917 of 2016 says that out of three sanctioned posts of Assistant in Puliarai Check Post, the petitioner alone is working in that station and the remaining two posts are vacant. Therefore, the petitioner was permitted to continue in the said station till new incumbent takes charge. Admittedly, when there are two more posts lying vacant in Puliarai Check Post, citing the Letter (Ms) No.14 (Home) Tr.II Department, dated 30.09.1996, issued by the Secretary to Government stating that all the Motor Vehicle Inspectors (Non-technical), Junior Assistants and the Assistants, who are posted in the Check Post on completion of one year in the respective stations, the petitioner has been transferred to Trichy. Firstly, the petitioner was brought from Tiruenveli to Puliarai Check Post on the basis of joining with his wife, who is already working in the Office of the Assistant Elementary Educational Officer, Kadayanalur. Therefore, when the petitioner, who was serving as Assistant in the Office of the Deputy Commissioner, Tirunelveli, had made a request for his transfer to the nearest place as his wife is employed at the Office of the Assistant Elementary Educational Officer, Kadayanalur, after passing an order of transfer to Puliarai Check Post on 11.07.2014, he could be transferred to any other place in view of the Government Letter (Ms) No.14 (Home) Tr.II Department,



dated 30.09.1996, issued by the Secretary to Government stating that all the Motor Vehicle Inspectors (Non-technical), Junior Assistants and the Assistants, who are posted in the Check Post on completion of one year in the respective stations. In view of the above, if there is a vacancy either in Tenkasi or Sankarankovil, the petitioner can be considered to any of the available vacancy. If there is no vacancy in the aforementioned place, the petitioner may be accommodated in any other place. Accordingly, the impugned order is modified and the Writ Petitions are disposed of.

8. In view of the above, the Contempt petition is closed. No costs.

Sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary,  
Transport Department,  
Fort St. George,  
Chennai 600 009.
- 2.The Transport Commissioner,  
O/o. The Transport Commissioner,  
Chepauk,  
Chennai - 5.
- 3.The Regional Transport Officer,  
O/o. The Regional Transport Officer,  
Thenkasi,  
Tirunelveli District.
- 4.The Principal Secretary / Transport Commissioner,  
O/o. The Transport Commissioner,  
Chepauk,  
Chennai 5.

+1cc to M/S.T.Lajapathi Roy, Advocate SR.No. 75079  
+1cc to Special Government Pleader, SR.No. 75048

W.P. (MD) Nos. 23917 of 2016, 11768 of 2017 &  
Cont.P. (MD) .No. 1160 of 2017  
28.08.2017