

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.08.2018

Coram

The Hon'ble Mr. Justice Satrughana Pujahari

Writ Petition No. 20285 of 2018

and

W.M.P.Nos.23817 and 23818 of 2018

A.Arunachalam

...Petitioner

Vs.

1. State Rep by
The Principal Secretary,
Commercial Tax Department,
Government of Tamil Nadu,
Secretariat, Chennai.

2. The Additional Chief Secretary/Commissioner of
Commercial Tax,
Ehilzhagam,
Chepauk,
Chennai - 600 005.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the records from the first respondent in G.O(D) No. 183 dated 30.07.2018 and quash the same and direct the first respondent to retain the petitioner at the present place of posting.

For Petitioner : Mr. M.Muthusamy

For Respondents : Mr. V.Haribabu

Additional Government Pleader (Tax)

O R D E R

Heard Mr.M.Muthusamy, the learned counsel appearing for the petitioner and Mr.V.Haribabu, the learned Additional Government Pleader (Tax), who accepts notice on behalf of the respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for disposal at the stage of admission itself.

2. The grievance of the petitioner, in this Writ Petition is that, he has been subjected to transfer vindictively from the post of Deputy Commissioner (Commercial Taxes), Zone-III, Coimbatore, to Deputy Commissioner (Commercial Taxes) (Audit) at Chennai before the completion of the general tenure in the said post, in spite of a representation made by him in advance, i.e. on 30.05.2018, not to disturb him from the said post, as any displacement of him from the said post presently would cost the education of his school going children. Therefore, the petitioner has made a prayer to quash such order of transfer and direct his retention in the post of Deputy Commissioner of Commercial Taxes, Zone-III, Coimbatore, wherein, he has worked only for two years before the impugned order.

3. The learned counsel appearing for the petitioner advancing the submission as aforesaid seeks a direction to the respondents to modify/cancel the impugned order.

4. The learned Additional Government Pleader appearing for the respondents would submit that the order of transfer was purely on administrative grounds. Hence, there is no ground to interfere with the said order.

5. It is a well settled law that transfer is an incident of service and particularly, when the same passed on administrative grounds, the Court usually do not interfere with the same, unless, the Court finds that such an order is passed being actuated with mala fide. In the instant case, the petitioner has challenged the order of transfer but no materials have been placed before this Court indicating that there is any malafide intention of the respondents for passing such order of transfer. Hence, this Court is not inclined to interfere with the impugned order of transfer. However, considering the fact that the petitioner had already made a representation expressing his plight, to retain him before the order of transfer, he is allowed to make a fresh representation, if so advised, to the first respondent within a period of seven days from the date of receipt of a copy of this order and on receipt of such representation, the first respondent shall take an informed and considered decision on the same as it may deem fit and proper within seven days thereof. So far as the prayer of the petitioner to allow him in the same post till the disposal of the representation is concerned, this Court is not inclined to grant such relief. However, pursuant to the order of transfer, even if the petitioner has already joined in the new place of posting, the same shall not weigh the mind of the first respondent, to consider his representation taking into account the difficulties expressed by him (petitioner) and also the guidelines, if any, in this regard.

6. With the aforesaid order, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(VIII)

// True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary,
Commercial Tax Department,
Government of Tamil Nadu,
Secretariat, Chennai.

2. The Additional Chief Secretary/Commissioner of
Commercial Tax,
Elizhagam,
Chepauk,
Chennai - 600 005.

+1cc to Mr.M.Muthusamy, Advocate SR.No.54711
+1cc to Spl. Government Pleader(Taxes), High Court Madras,
SR.No.53959

SJ(CO)
RMP(19/09/2018)

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