

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8170 of 2018

S.Natarajan

... Petitioner

Vs.

1.The Managing Director
Tamil Nadu Water Supply and Drainage Board
31, Kamarajar Salai
Chepauk, Chennai - 600 005.

2.The Executive Engineer
Tamil Nadu Water Supply and Drainage Board
Rural Water Supply Division
Gandhi Nagar, Vellore - 632 006.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order dated 27.03.2018 issued by the first respondent vide his proceedings No.19344/ENT/A3/2016 and quash the same and further direct the first respondent to retain the petitioner in the existing vacancy in Vellore district.

For Petitioner : Mr.L.Chandrakumar
For M/s.Law Square

For Respondents : Mr.S.Eraskine Leo

सत्यमेव जयते

O R D E R

The order of transfer dated 27.03.2018 issued by the first respondent transferring the writ petitioner from Vellore to Nagercoil is under challenge in this writ petition.

2.The writ petitioner was appointed as Assistant Driller under TWAD Board Mechanical Service and joined duty on 20.03.1999. Thereafter, the writ petitioner was appointed as Junior Assistant under the TWAD Board and further promoted to the post of Assistant on 28.07.2013. On completion of Divisional

Test conducted by the Accountant General of Tamil Nadu the writ petitioner was appointed as Assistant Accounts Officer on 31.07.2017. Accordingly, the writ petitioner joined as Assistant Accounts Officer, Rural Water Supply Division Vellore on 31.07.2017. The petitioner is continuing at Vellore as of now. While so, the impugned order of transfer was issued in proceedings dated 27.03.2018 transferring the writ petitioner from Vellore to Nagercoil in the existing vacancy due to administrative reasons.

3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was victimized on several occasions and he was constrained to move several writ petitions to redress his grievances for promotion in relation to the departmental disciplinary proceedings. The details of the pending writ petitions before this Hon'ble Court is enumerated in para 4 of the affidavit filed in support of writ petition by the writ petitioner is extracted hereunder:

Sl No.	Writ Petition Nos.	Prayer	Status of the W.P.
1.	W.P.No.5299 of 2012	To promote to the post of Assistant as has been promoted other Junior Assistants as per seniority	Pending
2.	W.P.No.29097 of 2014	To quash the illegal disciplinary proceedings invoking the provisions of Regulation 9(a) of the TWAD Board Standing Orders for Workmen, 1998	Pending
3.	W.P.No.29690 of 2015	To quash the impugned order dated 04.08.2015 issued by the first respondent vide B.P.Ms.No.55 withdrawing the orders passed in B.P.Ms.505.	Pending
4.	W.P.No.38353 of 2015	To quash the illegal orders passed by the Superintending Engineer, Vellore cancelling the movement of Special Grade Scale of Pay in the post of Junior Assistant.	Pending

Sl No.	Writ Petition Nos.	Prayer	Status of the W.P.
5.	W.P.No.1652 of 2018	To sanction annual increments on 01.07.2015, 01.07.2016 and 01.07.2017 in the post of Assistant and to fix my pay in the post of Assistant Accounts Officer on 01.08.2017 accordingly duly permitting to draw arrears of pay and allowances retrospectively	Pending

4.Relying on the said grievances, the learned counsel for the writ petitioner states that the second respondent/ Executive Engineer, Vellore forced the writ petitioner to put up the Contractors' Bill running to several crores with memorandum of payment so as to issue cheques immediately to the Contractors concerned on the same day without verification and checking any arithmetical calculation by any Auditor.

5.At the outset, the learned counsel for the writ petitioner states that the writ petitioner had not yielded to the illegal requests of the Second respondent in respect of honouring the Bills submitted by the Contractors running through several crores without verification and therefore, the petitioner is victimized by way of present transfer order. Though the facts regarding the above allegations were brought to the knowledge of the first respondent, no action was taken. However, the writ petitioner has been transferred to Nagercoil.

6.The learned counsel appearing on behalf of the respondents opposed the contentions raised by the writ petitioner by stating that the writ petitioner was not assisting the superior officer, while discharging the duties. The writ petitioner himself cleared three bills in respect of the contractors, which had been referred in para 8 of the affidavit filed by the writ petitioner. The learned counsel for the respondents submitted proof regarding the clearance of Bills by the writ petitioner to the tune of Rs.6.5 crores and the copies of those bills are produced before this court and the same is to be treated as documents in this writ petition.

7.On a perusal of the Bills, it is found that the writ petitioner himself had cleared the Bills in respect of the very same Contractors. Therefore, the learned counsel submits that the allegations set out in para 8 of the affidavit are incorrect and in order to circumvent the order of transfer, such false allegations raised in the writ petition.

8.The learned counsel for the respondents states that even

after receiving the order of transfer, the writ petitioner had not handed over the charge including the room key of the Assistant Accounts Officer. After issuance of the impugned order of transfer dated 27.03.2018, the room of the Assistant Accounts Officer is closed for the past about more than 1 week.

9.The learned counsel for the respondents submitted the original copy of the registered letter sent to the writ petitioner by the second respondent. The said letter was returned with an endorsement that "Intimation delivered as not claimed". The postman had taken several attempts to serve the registered post sent by the second respondent and more than three endorsement by the postal department stating "intimation delivered" were made

10.The learned counsel on behalf of the respondents states that the conduct of the writ petitioner is unbecoming of a Government employee and he remained absent after the issuance of the order of transfer. Therefore, the present writ petition is to be rejected.

11.Considering the arguments advanced both by the learned counsel for the writ petitioner as well as the respondents, this court is of an opinion that the present writ petition is filed challenging the order of transfer, transferring the writ petitioner from Vellore to Nagercoil. The writ petitioner is working as Assistant Accounts Officer, which is a responsible position and he is an authority, who has to clear the Bills running to several crores to the Contractors. When such a responsible position in the state service is provided to the writ petitioner, he must be accountable, and should perform his duties and responsibilities with devotion. The writ petitioner cannot be faulted with for filing number of writ petitions in respect of the grievances in relation to the promotion and initiation of proceedings against the writ petitioner by the department and those writ petitions are not connected with the present writ petition. सत्यमेव जयते

12.The learned counsel for the respondents states that the writ petitioner has filed several writ petitions in respect of the present transfer order. However, this court has to consider the fact that the order of transfer was issued on administrative reasons. This apart, the writ petitioner is working in a transferable post and holding a responsible position as an Assistant Accounts Officer. This apart, there is an allegation of not handing over the charge including the room key of the Assistant Accounts Officer by the writ petitioner.

13.However, those allegations need not be taken into account for the purpose of considering the present writ petition. But the impugned order is an administrative transfer order and

therefore, this court has to consider the same in this perspective.

14. Transfer is an incidental to service, more so, a condition of service. A writ petition challenging the order of transfer need not be entertained in a routine manner and only on exceptional circumstances an order of transfer may be quashed. The place of work and the post can never be claimed as a matter of right by an employee and it is the discretion of the Competent Authority to implement the Government schemes and policies by posting the employees in a right manner.

15. This being the principle and the transfer being incidental to service, this Court is not inclined to interfere with the order of transfer impugned in this writ petition. The power of judicial review on transfers are certainly limited. Intermediate intervention has to be exercised cautiously and cannot be done in a routine manner, more specifically in the matter of administrative transfers.

16. It is for the authorities to follow the guidelines issued by the Government in this regard and it is not for the Courts to interfere in the matters of transfer unless an order of transfer is issued without jurisdiction or with a malafide intention by the Authority. Even, in the case of, raising the plea of malafides, the said authority has to be impleaded as a party in his personal capacity. In the absence of these grounds, no writ petition can be entertained by this Court, under Article 226 of the Constitution of India.

17. A public servant can never claim the post or place as matter of choice. The Government employees are liable to be transferred on administrative reasons for effective public administration. Such transfer orders cannot be interfered with by the constitutional courts in a routine manner. This court cannot interfere with the day-to-day administration of the State. It is the prerogative of the administrative authority to place the employees in a particular place or in a particular post for the purpose of efficient public administration. Such decisions taken cannot be questioned before the court of law in a routine manner in the absence of any valid legal grounds in respect of the order of administrative transfers. The reasons may be several and it is not necessary that such reasons are to be adjudicated elaborately in a writ proceedings. If a competent authority is of an opinion that further continuance of an employee in a particular place is not preferable then he may be transferred to any other place in the public interest or in the interest of administration. Therefore, the reasons are not strictly required for the purpose of effecting the administrative transfers. So also the competent authorities while effecting such transfers should take into consideration

the eventuality in issuing transfer orders on administrative grounds. However, in the present case on hand the writ petitioner has raised certain bald allegations against the second respondent and such allegations are not substantiated with sufficient materials.

18. Therefore, this court has come to a conclusion that in order to circumvent the order of administrative transfer, certain allegations are made against the second respondent by the writ petitioner. Earlier the learned counsel for the respondent raised certain allegations against the writ petitioner in relation to the performance of his duties and responsibilities in co-ordination with the second respondent. That itself is a good administrative ground for transfer of the writ petitioner from one place to another place. In such sensitive place, where large amount of monetary involvements are there, then non-co-ordination is also a good ground for transferring an employee from one place to another place and the same has to be considered as an administrative reason. In the absence of coordination between the Assistant Accounts Officer and the Executive Engineer, there is no possibility of running the administration effectively and peacefully. For each and every fault there cannot be any writs and the public administration cannot be suffered on account of the personal indifferences between the officers.

19. Under these circumstances this court is of an opinion that there is no error in respect of the administrative transfers inflicted on the writ petitioner and the writ petitioner is in transferable posts and he has to join in the transferred place without any further delay and serve in the interest of public.

20. Accordingly, this writ petition is devoid of merits and stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director
Tamil Nadu Water Supply and Drainage Board
31, Kamarajar Salai
Chepauk, Chennai - 600 005.

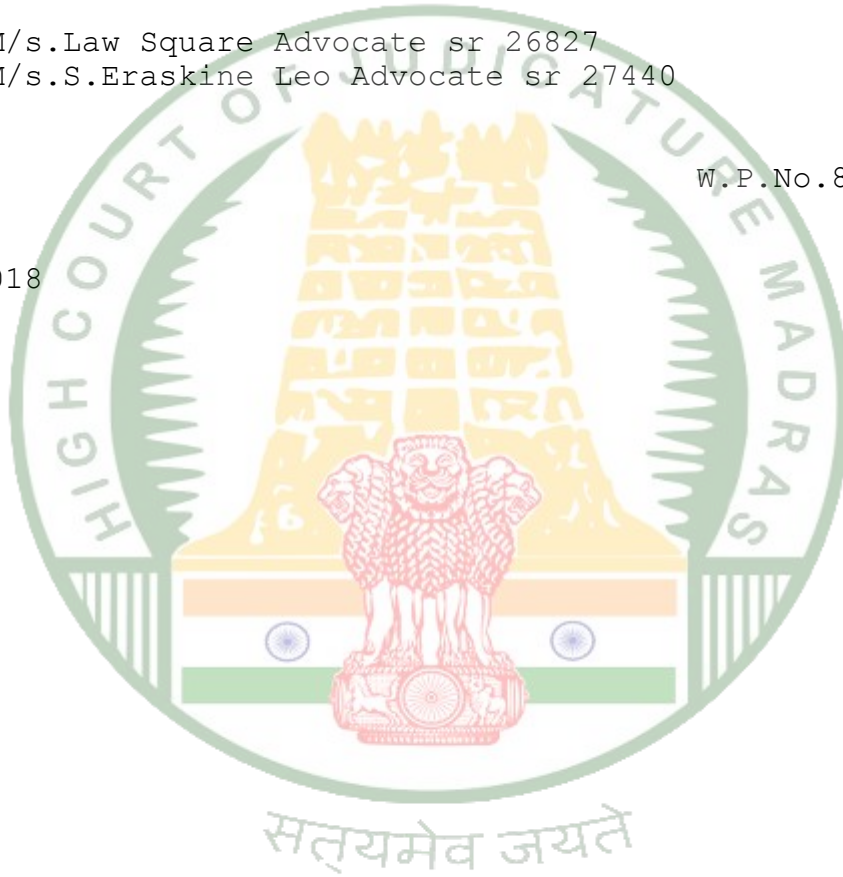
2.The Executive Engineer
Tamil Nadu Water Supply and Drainage Board
Rural Water Supply Division
Gandhi Nagar, Vellore - 632 006.

+1 cc to M/s.Law Square Advocate sr 26827

+1 cc to M/s.S.Eraskine Leo Advocate sr 27440

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