

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.8381 of 2014

And

M.P.No.1 of 2014

G.Saravanan

.. Petitioner

Versus

1.The Director of Public Libraries,
Chennai-2.

2.The District Library Officer,
Villupuram.

3.Tmt.K.Sargunavathy

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records on the file of the second respondent in Na.Ka.No.3061/A1/ 2009 dated 4.3.2014 and quash the same.

For Petitioner : Mr.S.Selvathirumurugan

For Respondents-1&2 : Ms.A.Sri Jayanthi,
Special Government Pleader.

For Respondent-3 : Mr.H.Krishna Raj

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O R D E R

The order of transfer issued by the second respondent, dated 4.3.2014, in transferring the writ petitioner from Branch Library, Eambalam and Eyagunam to the Branch Library, Pidagam, is under challenge in this writ petition. However, both the places are situated in Villupuram District.

2. By virtue of an interim order granted by this Court, the writ petitioner has already continued in the same post for more than four years. However, as per the Government Transfer Policy, an employee is eligible to continue in the same post for a period of three years. Thereafter, the authorities competent are at liberty to transfer the employee to any other place.

3. Transfer is an incidental to service, more-so, a condition of service. Transfer can never be claimed as a matter of legal right. Public servants, wherever posted, are liable to work in a place where they are posted in the interest of public and in the interest of administration. An order of transfer can be challenged on limited grounds. The writ proceedings against an order of transfer can be issued only if the same is in violation of the statutory rules or if the order has been issued by an incompetent authority having no jurisdiction or an allegation of mala fides is raised. Even in case of raising the allegation of mala fides, the authorities against whom such an allegation is raised to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of these legal grounds, no writ proceedings can be entertained.

4. Judicial review against an order of transfer is limited. The Constitutional Courts cannot interfere with the day-to-day administration of the State and its administration. The transfer, being not a punishment, cannot be challenged in all circumstances. Thus, the present writ petition deserves no further consideration at this point of time in view of the fact that the writ petitioner has already continued in the same place for more than three years. By virtue of an interim order, the writ petitioner cannot continue in the same place for an unspecified period, which may not be preferable and not in the interest of public administration.

5. This being the view and the principles to be followed, no further adjudication is required in respect of grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Director of Public Libraries,
Chennai-2.

2.The District Library Officer,
Villupuram.

+1cc to Mr.S.SELVATHIRUMURUGAN, Advocate, S.R.No.42837

+1cc to the Government Pleader, S.R.No. 43166 & 42765

WP 8381 of 2014

KJI (CO)
TR(12/07/2018)



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