

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2018

CORAM

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

W.P.No.7436 of 2018

and

WMP Nos.9235 & 9236 of 2018

A. Jothi

..Petitioner

Vs.

1.Secretary to Government
Government of Tamil Nadu,
Secretariat,
Chennai.

2.The Director,
Adi Dravidar and Tribal Welfare,
Chepauk,
Chennai-600 005.

3.District Adi Dravidar Welfare Officer,
Adi Dravidar and Tribal Welfare,
Cuddalore District,
Cuddalore.

4.The Personal Assistant to the Director,
Adi Dravidar and Tribal Welfare,
Chepauk,
Chennai-600 005.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to Order in Naka No.E4/1699/2018 dated 23.02.2018 passed by the 4th Respondent and quash the same and to direct the Respondents to retain the Petitioner as Jeep Driver at District Adi Dravidar and Tribal

Welfare Department at Cuddalore, with all consequential benefits, including arrears of pay and allowances.

For Petitioner : M/s.Y.Kavitha
For Giridhar and Sai

For Respondents: Mr.D.Venkatachalam
Additional Government Pleader

O R D E R

The order of transfer dated 23.02.2018 issued by the 4th respondent is under challenge in this writ petition.

2.The writ petitioner was appointed as a Cook during the year 1997 in Adi Dravidar and Tribal Welfare Department at Virudhachalam District. Subsequently, the writ petitioner was appointed as Jeep Driver in the same department. The writ petitioner is now working as Jeep Driver in the Office of the District Adi Dravidar and Tribal Welfare Office at Cuddalore District. On Administrative grounds, the Office of the Director issued the transfer orders in proceedings dated 23.02.2018, transferring the writ petitioner from Cuddalore District to Tuticorin District. The order of transfer states that the writ petitioner was transferred to Tuticorin District, and another jeep Driver, one M.Sekhar, was transferred from Tuticorin to Chennai. Thus, this is an administrative transfer issued on certain administrative grounds.

3.The learned counsel appearing on behalf of the writ petitioner states that the Appointing Authority for the post of jeep Driver is the District Adi Dravidar and Tribal Welfare Officer. However, the impugned order of transfer has been issued by the Personal Assistant to the Director, Adi Dravidar and Tribal Welfare, Chepauk, Chennai-600 005, and thus, the order of transfer is without jurisdiction. Consequently, the learned counsel for the writ petitioner states that the writ petitioner is having a short span of service, and therefore, he must be allowed to continue in service till he attains the age of superannuation.

4.The learned Additional Government Pleader appearing on behalf of the respondents produced the original file relating to the transfer of the writ petitioner. On a perusal of the file, it is clear, that the order of transfer was approved by the Director of Adi Dravidar and Tribal Welfare, Chepauk, Chennai-600 005, who is the head of the department. This apart, the Personal Assistant to the Director is the appointing authority

even for the post of Junior Assistant/Typist/ Steno Typist/Record Clerk/Office Assistant, and the Personal Assistant to the Director is the Competent Authority even for initiation of disciplinary proceedings.

5.This being the factum of the case, this Court is of an opinion that the transfer issued by the head of the Department cannot be set aside on the ground that it is issued by an incompetent Authority. No doubt, the writ petitioner was appointed by the District Adi Dravidar and Tribal Welfare Officer. However, the order of transfer was issued on administrative grounds by the head of the Department. Thus, the same cannot be said to be irregular or illegal.

6.Transfer is an incidental to service. More so, it is a condition of service. A writ against an order of transfer cannot be entertained in a routine manner. In the present writ petition on hand, the only point raised is that the order of transfer was issued without any jurisdiction. However, on verification of the original files, this Court found that the order of transfer on administrative grounds was issued by the Director of Adi Dravidar and Tribal, and therefore, the same cannot be interfered with. The High Court cannot interfere in the day to day administration of the State. Transfer being incidental to service, it is the prerogative of the executive to decide the posting of the employees for efficient public administration. Thus, the scope of judicial review against an order of transfer is certainly limited. This apart, the administrative transfers are issued on various reasons. The authorities may take a decision in respect of adverse consequences in the event of continuing a particular employee in a particular place. These reasons cannot be considered in a writ petition filed under Article 226 of the Constitution of India. Mere transfer will not affect the service conditions or the rights of an employee. The Government employees are liable for transfer in the interest of public. In these circumstances, the transfer of the writ petitioner cannot be said to be illegal. Furthermore, in the affidavit filed in support of the writ petitioner, it is stated that the writ petitioner is aged about 55 years. Thus, he is now left with three more years of service. Under these circumstances, the grounds raised that the writ petitioner has a short span of the service cannot be accepted. The writ petitioner has to work three more years in Government service and such a long service cannot be construed as a short span of service. The other personal grievance raised in the writ petition cannot be considered by the High Court. The personal grievance or otherwise ought to be considered only by the Competent Authorities, and it is left open to the writ petitioner to approach the Competent Authorities in respect of his personal

grievances or otherwise. In this view of the matter no further consideration is required in respect of the grounds raised in this writ petition.

7. Accordingly, this writ petition stands dismissed. There shall be no order as to costs in the writ petition. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. Secretary to Government
Government of Tamil Nadu,
Secretariat,
Chennai.
2. The Director,
Adi Dravidar and Tribal Welfare,
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Chennai-600 005.
3. District Adi Dravidar Welfare Officer,
Adi Dravidar and Tribal Welfare,
Cuddalore District,
Cuddalore.
4. The Personal Assistant to the Director,
Adi Dravidar and Tribal Welfare,
Chepauk,
Chennai-600 005.

+1cc to Mr. Giridhar & sai, Advocate, S.R.No.24590

+1cc to the Government Pleader, S.R.No.24844

W.P.No.7436 of 2018

nri(CO)
GSP(17/04/2018)