

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 3.1.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1755 of 2017
and
C.M.P.Nos.22297 and 22298 of 2017

C.D.Arunkumar Appellant/Petitioner

Versus

- 1 The Managing Director
Tamil Nadu Adi Dravidar Housing and
Development Corporation Limited
No.31 Cenotaph Road 2nd Lane
Teynampet Chennai-600 018.
- 2 The General Manager (Technical)
Tamil Nadu Adi Dravidar Housing
and Development Corporation Limited
No.31 Cenotaph Road 2nd Lane
Teynampet Chennai-600 018.
- 3 The Executive Engineer
Tamil Nadu Adi Dravidar Housing and
Development Corporation Limited
Govt. Hospital Road Villupuram District
Villupuram-605 602.

4 P.Alagumani Respondents/Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 21.11.2017 passed in W.P.No.41520 of 2016 on the file of this court.

WP.41520/2016 Petition Filed Under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records of the impugned order in proceedings No.A2/522/2014 dated 23.9.2016 issued by the Managing Director, Tamil Nadu Adi Dravidar Housing and Development Corporation Limited (TAHDCO), No.31, Cenotaph Road, the 1st respondent herein and quash the same

For appellant : Mr.Prabhakaran, Senior Counsel
for Mr.K.Balakrishnan
For RR1 to 3 : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the writ petitioner challenging the order passed by the learned Single Judge dismissing the writ petition which sought for interference with the order of transfer in service.

3. The main grievance of the appellant/writ petitioner is that though transfer is an incident of service, he had been transferred even before completion of transfer period of three years and he had been transferred thrice within a short span of time.

4. Learned Special Government Pleader would submit that some irregularities were found with the appellant/writ petitioner, however, without taking any departmental action, he had been transferred in view of administrative exigencies, which the appellant/writ petitioner is evading to abide.

5. The learned Single Judge dismissed the writ petition on the ground that the transfer is an incident of service and moreover, when the appellant/writ petitioner has been transferred during the period he was put on probation, he should not remain away from the transferred place and therefore, there is no justification for him to approach the court questioning the transfer.

6. It appears that the petitioner is said to have made several representation seeking for suitable place. The learned Single Judge has observed as under:-

" 7. When the petitioner was transferred from Cuddalore to Madurai by order dated 23.9.2016, it is not known how the petitioner has been evading from attending the duty in the transferred place viz., Madurai, even after completion of one long year. It is submitted by the learned Senior Counsel for the petitioner that since the impugned order has been passed as a punitive measure, the petitioner has made representations on 3.10.2016 and 14.11.2016 and anticipating response from the respondents, the petitioner was unable to join duty at he transferred place and that cannot be considered as wilful violation of the Government Conduct Rules.

8. But, this court is unable to appreciate the said attitude of the petitioner. When the petitioner has been transferred during the period he was put on probation, he should not remain away from the transferred place, as it is a well settled principle that the transfer is not only condition of service but also incident of service, therefore, the petitioner has no justification to come to this court questioning the impugned transfer order, as it has been passed only on administrative reasons."

7. We do not find any illegality in the order of the learned Single Judge. However, in view of the fact that certain difficulties are pleaded by the appellant petitioner, we are of the view that his case can be considered in accordance with law, on the basis of his representation dated 14.11.2016, a copy of which is found in page 90 of the typed set of papers, a decision shall be taken before the end of this financial year, provided the appellant/writ petitioner shall join duty in the transferred place within one month from today. The writ appeal is disposed of with the above observation. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

ssk.

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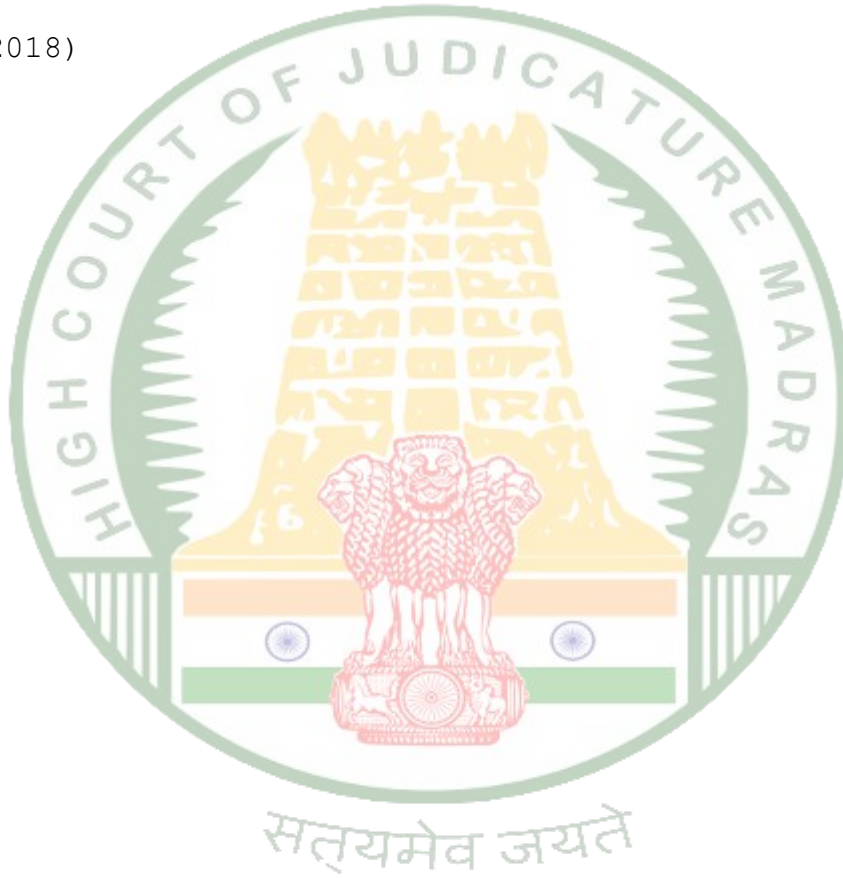
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+1cc to Mr.C.PONNUSAMY Advocate, S.R.No. 199

W.A.No.1755 of 2017

CA(CO)
TR(04/01/2018)



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