

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.189 of 2018

and

C.M.P.Nos.1324 and 1325 of 2018

Dr.J.Rajamoorthy ... Appellant

-vs-

- 1.The Government of Tamil Nadu,
rep.by its Principal Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.
- 2.The Director of Public Health and Preventive Medicine,
DMS Complex, Anna Salai,
Chennai-600 006.
- 3.The Director of Medical and Rural Health Services,
DMS Complex, Anna Salai,
Chennai-600 006.
- 4.The Deputy Director of Health Services,
No.52, Perumalkeela Veethi,
Nagapattinam-611 001.
- 5.Thiru O.S.Manian
- 6.Thiru S.Pavunraj .. Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.32865 of 2017 dated 19.12.2017.

Writ petition No.32865 of 2017 has been filed under Article 226 of the constitution of India praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 4th Respondent in Na.Ka. No.3519/ 2016/ A2 dated 30.10.2017 and to quash the same along with all subsequent notice as arbitrary illegal and malafide and consequently restraining the Respondents or any of its

subordinates agents or any other person claiming under the Respondent from transferring the Petitioner by malafide intention arising out of political vendetta.

For Appellant :: Mr.R.Singaravelan, Sr.Counsel
for Mr.P.Dinesh Kumar

For Respondents:: Mr.R.Prathap Kumar,
Additional Government Pleader

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The appellant was transferred by an order dated 12.08.2016 passed by the Director of Medical and Rural Health Services In-charge in Ref.No.50213/E3/1/2016-2 on administrative reasons, from the post of Chief Civil Surgeon, Government Primary Health Centre, Akkur, Nagapattinam to Government Headquarters Hospital, Nagapattinam, in the existing vacancy, as Chief Civil Surgeon (Pediatrics). The said order was not implemented for a period of one year. Thereafter, an order was passed on 30.10.2017 implementing the earlier order dated 12.08.2016 citing administrative reasons. Challenging the same, the appellant filed a writ petition before this Court in W.P.No.32865 of 2017 and this Court dismissed the said writ petition on 19.12.2017 on the ground that it is not the case as if the transfer order is passed against the appellant alone. Further, the learned single Judge has stated that transfer is an incident of service and that the transfer is necessary in public interest and for efficiency in the public administration. It was also observed that the order of transfer was passed due to administrative exigency.

2.Challenging the said order passed in the writ petition, the present writ appeal is filed by the appellant / writ petitioner.

3.The learned counsel for the appellant has submitted that the transfer of the appellant has been effected with malafide intention, arising out of political vendetta, since an oral fight took place between the appellant and the respondents 4 and 5 before passing the order dated 30.10.2017. He also submitted that the appellant was serving in the Akkur Hospital with unblemished records, but he was put to transfer mainly to cause trouble to him with malafide intention and politice motive, and due to the transfer, he has to travel more than 120 Kms a day spending 3 hours for that purpose alone. Stating so, he prayed for quashing the order passed by the learned single Judge and to

consequently restrain the official respondents from transferring the appellant.

4.The learned Additional Government Pleader appearing for the respondents 1 to 4 has submitted that the learned single Judge has considered the matter in proper perspective and passed the impugned order dismissing the claim of the appellant and hence the same does not require any interference.

5.Heard the learned counsel on either side and perused the materials available on record.

6.According to the learned counsel for the appellant, due to political motive, the appellant was transferred. It is seen from the records that four Chief Surgeons along with the appellant, have been transferred. Further, the appellant was transferred within the same District, from Government Primary Health Centre, Akkur, Nagapattinam District to Government Headquarters Hospital, Nagapattinam, as Chief Civil Surgeon (Pediatrics) in the existing vacancy. The said four Chief Surgeons were also transferred within the same District, where they were posted originally. Therefore, it cannot be stated that prejudice has been caused to the appellant. Further, transfer is an incident of service. Even though the order of transfer was passed earlier on 12.08.2016, due to administrative reasons, it would not have been implemented and when necessity arose, the same has been implemented by passing an order dated 30.10.2017. Thus, it cannot be stated as one which has been passed with political motive.

7.In view of the above stated circumstances, the writ appeal is dismissed. Consequently the connected miscellaneous petitions are closed. No costs. In view of the dismissal of the writ appeal, the appellant is permitted to join the transferred place, on or before 1st May 2018 to enable him to complete education of his children in the mean while.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.

2.The Director of Public Health and Preventive Medicine,
DMS Complex, Anna Salai,
Chennai-600 006.

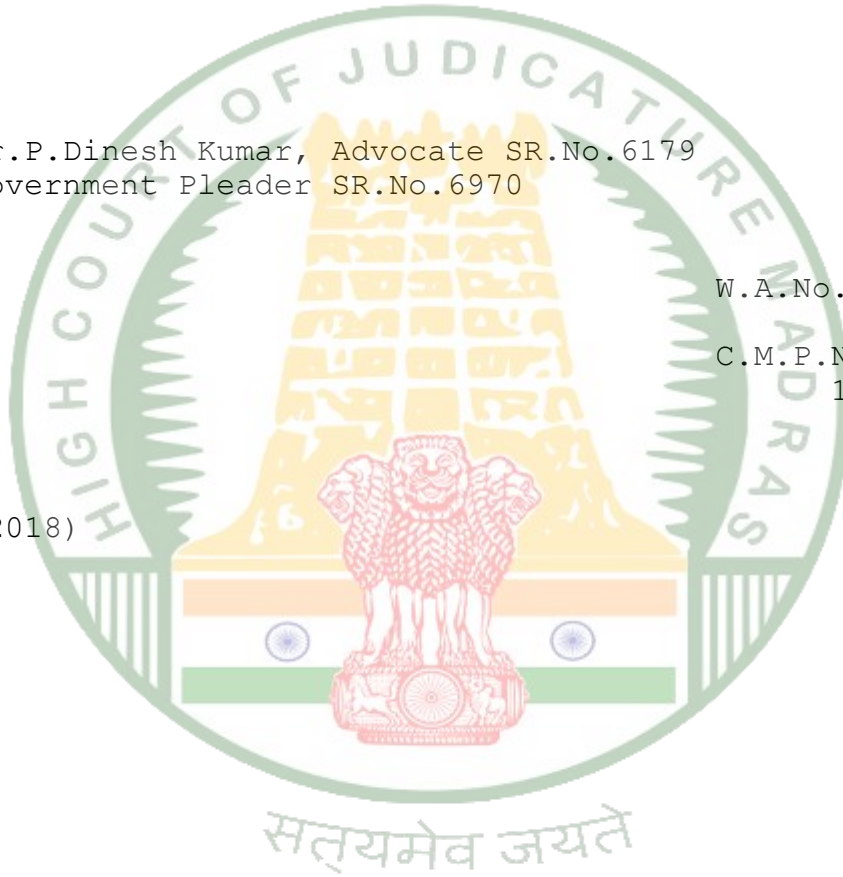
3.The Director of Medical and Rural Health Services,
DMS Complex, Anna Salai,
Chennai-600 006.

4.The Deputy Director of Health Services,
No.52, Perumalkeela Veethi,
Nagapattinam-611 001.

+1cc to Mr.P.Dinesh Kumar, Advocate SR.No.6179
+1cc to Government Pleader SR.No.6970

W.A.No.189 of 2018
and
C.M.P.Nos.1324 and
1325 of 2018

MP (CO)
GN(21/02/2018)



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